10.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 180. 39

THE BURLINGTON AND MISSOURI RIVER RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

MILLS COUNTY, IOWA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF IOWA.

FILED DECEMBER 7, 1867.

SUPREME COURT OF THE UNITED STATES.

No. 180.

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MILLS COUNTY
vs.
BURLINGTON & MISSOURI RIVER RAILROAD Company. } Chancery.

Pleas before Hon. James G. Day, judge of the 3d judicial district of Iowa, in the above-entitled cause, in the District Court for Mills county, Iowa.

1 Be it remembered, that on the 1st day of December, A. D. 1863, there was filed in the office of the clerk of the District Court for Mills county, Iowa, a petition in the words and figures following, to wit:

In the District Court of Mills county, Iowa, of the February term, 1864.

MILLS COUNTY
vs.
THE BURLINGTON & MISSOURI RAILROD Company.

To the District Court of Mills county, Iowa, in chancery sitting:

Your complainant, the County of Mills, in the State of Iowa, respectfully represents to this court that she is the owner of, and possesses the legal title to, the various tracts of land hereinafter described and attached to this bill, and made a part hereof, situated in Mills county, Iowa, by virtue of an act of the Congress of the United States of America, approved September 28th, 1850, granting the same to the State of Iowa, and by virtue of the act of the legisture of the State of Iowa, approved January 13th, 1853, and the acts supplementary thereto; that said lands refered to were duly selected under the acts of Congress and the legislature of the
2 State of Iowa above referred to by the proper authorities as swamp and overflowed lands, and the selection so made and returned, as required by law, was confirmed by the subsequent act of Congress, approved March 3d, 1857.

2nd. Complainant further showeth that said respondent, The Burlington & Missouri River Railroad Company, pretends to claim and own the said lands hereinafter described, by virtue of an act of the Congress of the United States of America, approved May 15th, 1856, and also certain acts of the legislature of the State of Iowa. Complainant further states that she has made divers contracts of sale to individuals for a portion of the lands refered to, but that she has not conveyed the same, and still holds the legal title thereto, vested in her by the acts refered to; further, that respondent sets up title thereto as aforesaid, threatens suits, and offers the same for sale, and in fact, has made contracts for the sale of a portion of the same, thus casting a cloud over the title of complainant, and raising doubts as to her capacity to convey.

Your complainant therefore prays this court, on the final hearing of this cause, that a decree be entered up decreeing fully and completely the title to the lands hereinafter described to be in complainant, and for such other and further relief as equity and good conscience may seem meet and proper; and your petitioner will ever pray. EWING & HALE, *Att'ys for Compl't.*

Swamp lands, Mills Covnty, Iowa.

Parts of section.	Sec.	Town.	R'ng	Area.
3 W half NE	5	72	40	80
NE qr NE qr	5	do	do	40
N half NW qr	5	do	do	66.96
SE qr NW qr	5	do	do	40
SW qr SW qr	5	do	do	40
N half	7	do	do	317.88
SW qr	7	do	do	160
E half SE qr	7	do	do	80
E half NE qr	17	do	do	80
W half NW qr	17	do	do	80
N half	19	do	do	321.93
E half NW qr and SW qr	1	73	40	235.23
W half NW qr and W half SW qr.	3	do	do	155.85
Whole of	9	do	do	640
S half SE qr and NE qr SE qr	11	do	do	120
W half	15	do	do	320
SE qr and S half NE qr	15	do	do	240
E half SW qr and W half SE qr	17	do	do	160
SE qr SE qr	17	do	do	40
Whole of	21	do	do	640
E half of sec. W qr and E half SW qr	29	do	do	560
NW qr SW qr	29	do	do	40
W half of sec. SE qr and W half NE qr	31	do	do	540.44
NE qr NE qr	31	do	do	40
Whole of	9	71	41	640
NW qr and W half SW qr and NW qr SE qr	11	do	do	280
Whole of	15	do	do	640
NE qr NE qr	17	do	do	40
E half of sec. SW qr and NE qr NW qr	21	do	do	520
W half of sec. W half NE qr and W half SE qr	27	do	do	480
SE qr and E half NE qr and E half NW qr	29	do	do	330
4 E half SW qr and NW qr SW qr	29	71	41	120
SE qr SE qr	31	do	do	40
E half of sec. SW qr and E half NW qr	33	do	do	560
SNW qr NW qr	33	do	do	40
E qr and E half SW qr	1	72	41	240
S half of sec. and E half NE qr and NW qr NE qr	13	do	do	440
S half NW qr	19	do	do	80.87
E half of sec. SW qr and E half NW qr	23	do	do	560
W half of sec. and NE qr	25	do	do	480
NE qr and E half SE qr	27	do	do	240
SW qr	29	do	do	160
E half of sec. SW qr and NW qr NW qr	35	do	do	520
SW qr SW qr	19	73	41	35.17
NE qr N half SE qr and SW qr	1	73	42	390.07
NE qr and E half SW qr	5	do	do	233.99
E half NE qr and E half SE qr	11	do	do	160
NW qr NW qr	13	do	do	40
E half NW qr and N half NE qr	19	do	do	160
W half SE qr and SE qr SW qr	19	do	do	120
N half NE qr	25	do	do	80
NE qr NW qr SW qr NE qr and NW qr SE qr	31	do	do	120
NW qr and W half SE qr	1	71	43	219.46
N half of sec. SE qr and E half SW qr and NW qr SW q.	3	do	do	551.24
NW qr and N half SW qr and S half NE qr and SE qr	5	do	do	451.47
W half of sec W half NE qr and SE qr	9	do	do	480
N half NE qr and N half NW qr	11	do	do	160
S half of sec and W half NW qr	17	do	do	400
NE qr NE qr	19	do	do	40

Swamp lands, Mills County, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Area
NW qr and W half of SW qr and NW qr of NE qr.	21	71	45	280
E half of sec	29	do	do	320
NW qr NE qr and S half NE qr and SE qr NW qr	33	do	do	160
SE qr and E half SW qr	33	do	do	240
5 W half SW qr and SE qr and SW qr and SW qr SE qr	35	72	43	160
W half sec W half NE and NE qr NE qr	5	72	43	403. 18
SW qr NW qr	7	do	do	40. 51
SW qr	17	do	do	160
W half of	19	do	do	320. 15
Whole of	21	do	do	640
SW qr SW qr	23	do	do	40
Whole of	27	do	do	640
E half of sec SW qr and E half SW qr	29	do	do	560
E half of	31	do	do	320
W half of sec W half NE qr and W half SE qr	33	do	do	480
E half of sec and S half NW qr	35	do	do	325. 22
NE qr and N half NW qr and NW qr SE qr and SE qr SW qr	5	73	43	595. 82
W half of sec SE qr and W half NE qr and SE qr NE qr	7	do	do	201. 30
E half NW qr and E half SW qr	17	do	do	160
NW qr NW qr and SW qr NE qr and E half SE qr	19	do	do	542. 95
W half NE qr and W half SE qr	31	do	do	15. 68
Whole of	1	72	44	160
Lot No. one (1)	11	do	do	40
W half NE qr NW qr SE qr NE qr SW qr	13	do	do	160
NE qr NW qr	13	do	do	40
E half NW qr and W half NE qr	25	do	do	160
W half SE qr and NE qr SW qr	25	do	do	120
NE qr NE qr S half SE qr and SE qr SW qr	1	73	44	160. 37
E half NE qr NW qr and NE qr SE qr	13	do	do	160
Lots No. two and three	23	do	do	64. 50
Whole of	27	do	do	12. 60
NE qr NW qr and lots No. 2 and 3	35	do	do	191. 27

6 *Copy of original notice.*

To the Burlington and Missouri River Railroad Company:

You will take notice that there is now on file in the office of the clerk of the district Court of Mills county, Iowa, the petition of Mills county, setting up that she is the owner of certain tracts of land therein described, situated and being in Mills county, Iowa, and further showing that you also pretend to claim and own the title to said lands, and offer the same for sale, and dispute the title of plaintiff to, and capacity of said plaintiff to convey the same, thereby injuring and casting a cloud over the title of said plaintiff to said lands, and that unless you appear thereto and defend on or before noon of the second day of the next term of said court, to be begun and held in Glenwood, Iowa, on the third Monday of April, 1864, judgment and decree will be rendered against you as prayed for in said petition.

Feb'y 5th, 1864.

EWING & HALE,
Att'ys for Plaint'f.

U. S. rev stamp, 50 cts.
Mills county, by Wm. Hale, att'y for plff.
Feb. 5, 1864.

7 On the back of this notice is endorsed the officer's return, in the words and figures following, to wit:

STATE OF IOWA, *Des Moines County, ss*:

I received this notice Feb'y 10th, 1864, at 11 o'clock, a. m., and on the same day I served the same on James C. Peasley, land agent of the Burlington and Missouri River Railroad Company, by reading the same to and delivering to him a true copy at his office, in the city of Burlington, Des Moines county, Iowa.

MARTIN HEISEY,
Sheriff Des Moines County, Iowa.
By J. W. HEISEY, *Deputy.*

Fees—Service, milage, copy and postage, pd. by Wm. Hale, pl'ff att'y..... $1 00

And afterwards, to wit, on the 10th day of August, A. D. 1864, there was filed in the office of the clerk an amended petition, in the words and figures following, to wit:

In the District Court of Mills county, Iowa.

Amended petition.

MILLS COUNTY
vs.
THE BURLINGTON AND MISSOURI RIVER RAILroad Company. } February term, 1864.

To the District Court of Mills county, in chancery sitting:

8 Comes now your petitioner, and for amended petition, herein represents, that by virtue of an act of Congress approved September 28th, 1850, entitled an "Act to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits," and by virtue of an act of the general assembly of the State of Iowa, entitled "An act to dispose of the swamp and overflowed lands within this State, and to pay the expenses of selecting and surveying the same," passed January 13th, 1853, and other acts of said general assembley supplementary thereto, and by virtue of an act of Congress entitled "An act to confirm to the several States, the swamp and overflowed lands selected under the act of September 28th, 1850, and the act of the 2d of March, 1849," approved March 3d, 1857.

Your petitioner, The County of Mills, in the State of Iowa, became the owner of the several tracts of land hereinafter specified, and more particularly designated and described in the lists of said lands hereto attached and made a part of this petition.

Your petitioner says that said lands were duly and legally selected and returned as swamp and overflowed lands under said acts, and that by virtue of said several acts of Congress and the general assembly your petitioner became the owner of the same, and entitled thereto in fee simple, and to the full, free, and uninterrupted possession, use, and enjoyment of the same.

9 Your petitioner further says, that relying in good faith in her right in and to said several tracts of land acquired by virtue of the acts aforesaid, she has made divers contracts of sale to various individuals, citizens of said county and State, for numerous tracts of said land, but that she has not conveyed the same, but retains and still holds the right to said land vested in her by the said several acts aforesaid.

2d. Complainant further showeth that the defendant herein, The Burlington and Missouri River Railroad Company, pretends to claim title to said land, and assumes to be the owner thereof, by virtue of an act of Congress entitled "A bill making a grant of lands to the State of Iowa, in alternate sections to aid in the construction of certain railroads in said State," approved 15th May, 1856, and certain acts of the general assembley of the State of Iowa, as lands granted to said company to aid in the construction of a railroad from Burlington, on the Mississippi river to a point on the Missouri river near the mouth of the Platte river, and that said company denies the right of complainant to said lands and threatans suits and offers to sell said lands, and in fact has made contracts of sale for parts of said land, thus casting a cloud upon the right and title of complainant, and raising doubts as to her capacity to convey said lands.

10 Your petitioner therefore prays that inasmuch as she cannot have adequate relief in a court of law, this court may hear her cause in chancery, and render a decree fully and completely, settling and decreeing the right and title in fee simple to said lands and every part thereof to be in your petitioner, and that all claim thereto by or through the defendants be decreed void and held for nought, and for such other and further relief in the premises as in equity and good conscience may seem meet, and for costs of suit.

THOMAS EWING & WILLIAM HALE,
Att'ys for Pl'ff.

Swamp lands, County, Iowa.

Parts of section.	Sec.	Town.	R'ng.	Area.
11 W half NE qr and NE qr NE qr	5	72	40	120
N half NW qr and SE qr, NW qr	do	do	do	106.96
SW qr SW qr	do	do	do	40
N half of sec and SW qr, and E half SE qr	7	do	do	555.88
NW qr	17	do	do	160
N half.	19	do	do	321.93
E half NW qr and SW qr.	1	73	do	235.23
W half NW qr and W half SW qr.	3	do	do	155.85
Whole of	9	do	do	640
S half SE qr and NE qr SE qr	11	do	do	120
W half of sec and SE qr, and S half SE qr	15	do	do	560
E half SW qr and W half SE qr, and SE qr SE qr	17	do	do	200
Whole of	21	do	do	640
E half of sec and NW qr, and E half SW qr, and NW qr SW qr	29	do	do	600
W half of sec. and SE qr, and W half NE qr, and NE qr NE qr	31	do	do	580.44
Whole of	9	71	41	640
NW qr and W half, SW qr and NW qr NE qr	11	do	do	280
Whole of	15	do	do	240
NE qr NE qr	17	do	do	40
E half of sec and SW qr, and NE qr NW, qr	21	do	do	520
W half of sec and W half NE qr, and W half SE qr.	27	do	do	480
SE qr and E half NE qr, and E half of NW qr, and E half SW qr	29	do	do	400
NW qr, SW qr of 29, and SE qr SE qr	31	do	do	80
E half of sec and SW qr, and E half NW qr, and NW qr NW qr	33	do	do	600
SE qr and E half SW qr.	1	72	do	240
S half of sec, E half NE qr, and NW qr NE qr	13	do	do	440
S half NW qr	19	do	do	80.87
E half of sec, SW qr, and E half NW qr	23	do	do	560
W half of sec. and NE qr.	25	do	do	440
NE qr and E half SE. qr.	27	do	do	240
SW qr	29	do	do	160
12 E half of sec SW qr, and NW qr NW qr	35	72	do	520
SW qr SW qr	19	73	do	35.17
NE qr and N half SE qr, and SW qr	1	73	42	390.07
NE qr and E half SW qr	5	do	do	233.99
E half NE qr and E half SE qr	11	do	do	160
NW qr NW qr	13	do	do	40
E half NW qr, and W half NE qr, and W half SE qr, and SE qr SW qr.	19	do	do	280
N half NE	25	do	do	80
NE qr NW qr, and SW qr NE qr, and NW qr SE qr.	31	do	do	120
NW qr, and W half SE qr.	1	71	43	219.46
N half of sec SE qr, E half SW qr, and NW qr SW qr	3	do	do	551.24
NW qr, and N half SW qr, and S half of NE qr and SE qr	5	do	do	451.47
W half sec. and W half NE qr and E half SE qr	9	do	do	480
N half NE qr, and N half NW qr	11	do	do	160
S half of sec, and W half NW qr	17	do	do	400
NE qr NE qr	19	do	do	40
NW qr and W half SW qr, and NW qr NE qr	21	do	do	280
E half of	29	do	do	320
NW qr NE qr, and S half NE qr and SE NW	33	do	do	160
SE qr, and E half SW qr	33	do	do	240
W half SW qr and SE qr, SW qr and SW qr SE qr	35	do	do	160
W half of sec, and W half NE qr	5	73	42	403.88
SW qr NW qr	7	do	do	41.51
SW qr	17	do	do	160
W half of sec	19	do	do	320.15
Whole of	21	do	do	640
SW qr SW qr	23	do	do	40

Swamp lands, *County, Iowa.*—Continued.

Part of section.	Sec.	Town.	R'ng.	Area.
E half of sec, and SW qr and W half NW qr	29	73	42	560
Whole of	27	do	do	640
E half of sec	31	do	do	320
E half sec, W half NE qr and W half SE qr	33	do	do	480
13 E half of sec, and S half NW qr	35	72	43	400
NE qr and N half NW qr, NW qr SE qr, and SE qr SW qr	5	73	do	325.22
W half of sec. SE qr and Whalf NE qr, and SE qr NE qr	7	do	do	595.82
E half NW qr and E half SW qr	17	do	do	160
NW qr NW qr, and SW qr NE qr, and E half SE qr	19	do	do	201.30
W half NE qr and W half SE qr	31	do	do	160
Whole of	1	72	44	542.95
Lot one	11	do	do	15.68
NE qr NW qr, and W half NE qr, NW qr, SE qr, and NE qr, SW qr	13	do	do	200
E half NW qr, and W half NE qr	25	do	do	160
N half SE qr, and NE qr SW qr	25	do	do	120
NE qr NE qr, and S half SE qr and SE qr SW qr	1	73	do	160.37
E half NE qr and NW qr, NE qr and NE qr, and NE qr SE qr	13	do	do	160
Lots No. 2 and 3	23	do	do	64.50
Whole of	27	do	do	12.60
NE qr NW qr, and lots 1, 2, and 3	35	do	do	191.27

14 And afterwards, to wit, on the 8th day of April, A. D. 1864, there was filed in the office of the clerk of the District Court of Mills county, Iowa, an answer in the words and figures following, to wit:

In the District Court of Mills County.

Answer.

MILLS COUNTY, PL'FF., *vs.* THE BURLINGTON AND MISSOURI RIVER Railroad Company, def't.	In chancery—equitable proceeding.

STATE OF IOWA, *ss:*

Now comes the Burlington and Missouri River Railroad Company, the defendant herein, and reserving all advantage of cause of demurrer to plaintiff's petition to the errors and insufficiencies, this defendant, answering, says:

1st. This defendant denies ever having claimed or offered to sell, as alleged in said petition or otherwise, the lands described as the east half of the southeast quarter of sec. 1, and southeast quarter of southwest of section 1, in township 73, north range, four west, and declines title thereto.

15 2d. The defendant denies that complainant is the owner of, or is possessed of the legal title to, the various tracts of land, or any part thereof, described in and attached to the petitioner's bill, as in said bill or petition is alleged, or in any manner or by any right whatever. This defendant denies that said lands, or any part thereof, were duly selected under said acts of Congress and legislative acts, as in said bill alleged; denies that any such selection was ever made or rendered, as required by law; denies that such selections were ever confirmed by act of Congress, as in said bill is stated and alleged, of any and of all the lands described in said bill.

3d. This defendant admits that the defendant claims to own all the lands in said bill and exhibit described, (except the tract first mentioned in this answer, as to which this defendant has disclaimed,) as in said bill is alleged, by virtue of the act of Congress of 15th May, 1856, in said bill refered to, and certain acts of the legislature of the State of Iowa, and which are more fully refered to hereafter.

4th. This defendant has no knowledge or information, nor means of information, nor any on which to found a belief, and has no belief as to the truth of the statement that complainant has contracted to sell certain of said lands, and therefore, if material, requires proof thereof, and denies the truth of said allegation.

5th. This defendant admits the offering for sale of certain of said lands described in said petition and exhibit, and the sale of

16 some tracts thereof, and claims the right so to do. This defendant avers and states that by act of Congress, entitled "An

(act or bill) making a grant of land to the State of Iowa, in the alternate sections, to aid in the construction of certain railroads in said State," approved May 15th, 1856, there was granted to the State of Iowa, for the purpose of aiding (among other things) in the construction of a railroad from Burlington, on the Mississippi river, to a point on the Missouri river near the mouth of Platte river, certain lands of the United States, and that the general assembley of the State of Iowa, and the State of Iowa, by an act entitled "An act to accept the grant and carry into execution the trust conferred upon the State of Iowa in alternate sections, to aid in the construction of railroads in the State, approved May 15th, 1856," granted to this defendant so much and all of the lands, interests, rights, powers, and priviliges as were or might be granted or confered by said act of Congress of the 15th of May, 1856, to aid in the construction of the said road from said Burlington to said Missouri river, in like trust to aid in the construction of said last-named railroad; and that in and by said act of assembley this defendant is expressly recognized as a corporate body, created and existing under the laws of Iowa, and as the company and corporation refered to and intended in said act of Congress as beneficiaries therein.

17 This defendant furthermore avers and states, that the lands in said complainant's bill and exhibit described, (except the tract refered to hereinbefore as not owned or claimed by defendant,) were and are a part of the lands so granted by said act of Congress and said legislative act of the State of Iowa, of said State, and to the defendant, to aid in the construction of said railroad from said Burlington to said Missouri river, as aforesaid, and have been and are listed and set off and certified and proved to this defendant, on and under dates of the respective exhibits hereto annexed, by the proper authority of the United States, under and by virtue of said act of Congress and legislative act, as will more fully appear by certified copies of the lists and certificates setting off the same, here annexed as a part of this answer, and respectively marked Exhibits A, B, C, and D, the originals of which will be produced and read in evidence on the trial of this cause, which said lists and certificates confer legal title to said lands in this defendant, and by virtue of which defendant makes and claims title thereto.

Wherefore, this defendant denies the right of complainant to said lands, (except the tract described as aforesaid,) and says that this defendant has the better legal and equitable title thereto,

18 and to each and every tract and parcel thereof. Defendant also denies the right of complainant to the relief claimed, and all relief, whatever, and asks that complainant's bill be dismissed.

DAVID RORER,
Att'y and Solicitor for Defendant.

19 *Exhibit A.*

Burlington & Missouri River Railroad. Supplemental list of lands, act of 15th of May, 1856. Council Bluffs district, Iowa, 6 mile limits. Approved March 2d, 1862.

GENERAL LAND OFFICE, *March 25th*, 1862.

I, J. M. Edmonds, Commissioner of the General Land Office, do hereby certify that the annexed, from page one to five inclusive, is a true and literal exemplification of the original approved list on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] J. M. EDMUNDS,
Commissioner of the General Land Office.

SAMUEL J. KIRKWOOD.

20 *The Burlington and Missouri River Railroad.*

Supplemental list of lands in the district of lands subject to sale at Council Bluffs, within the six mile limits, granted to the State of Iowa by an act of Congress, approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," being the vacant and unimproved lands in the alternate sections designated by odd numbers, for six section in width on each side of the railroad, from Burlington, on the Mississippi river, to a point on the Missouri river near the mouth of the Platt river, known as the Burlington and Missouri River railroad.

SAMUEL J. KIRKWOOD.

21 *Page* 1.—*North of the base line and west of 5th principal meridian, Iowa.—The Burlington and Missouri river, Council Bluffs Dist., Railroad list, 6 mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
1	NE qr NW qr	3	71	34	35 41/100
2	SW qr NE qr and NE qr SW qr	3	71	34	80
3	SW qr SW qr	3	71	34	40
4	SE qr SE qr	5	71	34	40
5	W half SW qr and NE qr SE qr	7	71	34	134 92/100
6	NW qr NE qr and SE qr SW qr	31	72	34	80
7	S half NE qr	35	72	34	80
8	NW qr NW qr	19	70	35	35 52/100
9	W half SW qr	1	71	35	80
10	NE qr NW qr SW qr NW qr and S half NE qr	11	71	35	160
11	N half SE qr and SE qr SE qr	11	71	35	120
12	W half NW qr	15	71	35	80
13	NE qr NE qr SE qr and SE qr SW qr	17	71	35	240
14	NE qr SW qr	17	71	35	40
15	SE qr SE qr	17	71	35	40
16	SE qr and SE qr SW qr	31	71	35	200
17	SE qr	11	72	35	160
18	S half NE qr and NW qr NE qr	15	72	35	120
19	S half NW qr and NW qr SE qr	15	72	35	120
20	N half of section	29	72	35	320
21	E half NE qr and E half SE qr	5	70	36	161 29/100
22	N half SW qr	9	70	36	80
23	E half NE qr	17	70	36	80
24	W half SE qr and SE qr SE qr	21	70	36	120
25	E half SW qr and E half NW qr	21	70	36	160
26	E half SW qr and SW qr SW qr	3	71	36	120
27	E half SE qr	9	71	36	80
28	E half SE qr	21	71	36	80
29	W half NW qr and NE qr NW qr	23	71	36	120
30	NE qr SE qr	27	71	36	40
31	SW qr SE qr	21	72	36	40
32	E half NW qr and E half SW qr	9	71	37	160
33	W half NE qr and NE qr NW qr	29	71	37	120
34	W half NE qr and NE qr SW qr	33	71	37	120
35	W half NE qr and SW qr	7	71	38	237 82/100
36	NW qr NE qr	17	72	38	40
					3,964 13/100

SAMUEL J. KIRKWOOD.

19 *Exhibit A.*

Burlington & Missouri River Railroad. Supplemental list of lands, act of 15th of May, 1856. Council Bluffs district, Iowa, 6 mile limits. Approved March 2d, 1862.

GENERAL LAND OFFICE, *March 25th*, 1862.

I, J. M. Edmonds, Commissioner of the General Land Office, do hereby certify that the annexed, from page one to five inclusive, is a true and literal exemplification of the original approved list on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] J. M. EDMUNDS,
Commissioner of the General Land Office.

SAMUEL J. KIRKWOOD.

20 *The Burlington and Missouri River Railroad.*

Supplemental list of lands in the district of lands subject to sale at Council Bluffs, within the six mile limits, granted to the State of Iowa by an act of Congress, approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," being the vacant and unimproved lands in the alternate sections designated by odd numbers, for six section in width on each side of the railroad, from Burlington, on the Mississippi river, to a point on the Missouri river near the mouth of the Platt river, known as the Burlington and Missouri River railroad.

SAMUEL J. KIRKWOOD.

21 *Page* 1.—*North of the base line and west of 5th principal meridian, Iowa.—The Burlington and Missouri river, Council Bluffs Dist., Railroad list, 6 mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
1	NE qr NW qr	3	71	34	35 61/100
2	SW qr NE qr and NE qr SW qr	3	71	34	80
3	SW qr SW qr	3	71	34	40
4	SE qr SE qr	5	71	34	40
5	W half SW qr and NE qr SE qr	7	71	34	134 92/100
6	NW qr NE qr and SE qr SW qr	31	72	34	80
7	S half NE qr	35	72	34	80
8	NW qr NW qr	19	70	35	35 52/100
9	W half SW qr	1	71	35	80
10	NE qr NW qr SW qr NW qr and S half NE qr	11	71	35	160
11	N half SE qr and SE qr SE qr	11	71	35	120
12	W half NW qr	15	71	35	80
13	NE qr NE qr SE qr and SE qr SW qr	17	71	35	240
14	NE qr SW qr	17	71	35	40
15	SE qr SE qr	17	71	35	40
16	SE qr and SE qr SW qr	31	71	35	200
17	SE qr	11	72	35	160
18	S half NE qr and NW qr NE qr	15	72	35	120
19	S half NW qr and NW qr SE qr	15	72	35	120
20	N half of section	29	72	35	320
21	E half NE qr and E half SE qr	5	70	36	161 29/100
22	N half SW qr	9	70	36	80
23	E half NE qr	17	70	36	80
24	W half SE qr and SE qr SE qr	21	70	36	120
25	E half SW qr and E half NW qr	21	70	36	160
26	E half SW qr and SW qr SW qr	3	71	36	120
27	E half SE qr	9	71	36	80
28	E half SE qr	21	71	36	80
29	W half NW qr and NE qr NW qr	23	71	36	120
30	NE qr SE qr	27	71	36	40
31	SW qr SE qr	21	72	36	40
32	E half NW qr and E half SW qr	9	71	37	160
33	W half NE qr and NE qr NW qr	29	71	37	120
34	W half NE qr and NE qr SW qr	33	71	37	120
35	W half NE qr and SW qr	7	71	38	237 82/100
36	NW qr NE qr	17	72	38	40
					3,964 13/100

SAMUEL J. KIRKWOOD.

22 *Page 2.—North of the base line and west of 5th principal meridian, Iowa.—The Burlington and Missouri river, Council Bluffs Dist., Railroad list, 6 mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
37	W half SW qr and NE qr SW qr	29	72	38	120
38	E half SW qr and SW qr NE qr	31	72	38	120
39	NW qr SW qr	31	73	38	36 65
40	W half SE qr and SW qr NE qr	1	71	39	120
41	S half NW qr	17	71	39	80
42	E half NE qr	19	71	39	80
43	SW qr SE qr	11	72	39	40
44	NW qr SE qr	27	72	39	40
45	NE qr NW qr	23	72	39	40
46	N half NE qr SW qr NE qr and N half SW qr	5	72	40	146 96
47	SE qr NW qr and SW qr SW qr	5	72	40	80
48	W half of sec. NE qr and E half SE qr	7	72	40	557 88
49	E half NE qr and W half NW qr	17	72	40	160
50	N half of section	19	72	40	321 92
51	S half of section	21	73	40	320
52	E half of section and NW qr	29	73	40	480
53	N half SW qr and SE qr SW qr	29	73	40	120
54	W half of section and W half NE qr	31	73	40	380 44
55	SE qr NE qr NE qr	31	73	40	200
56	Whole of	9	71	41	640
57	NW qr W half SW qr and NW qr NE qr	11	71	41	280
58	Whole of	15	71	41	640
59	NE qr NE qr	17	71	41	40
60	E half of section, SW qr NE qr NW qr	21	71	41	520
61	W half of section, W half NE qr	27	71	41	400
62	SE qr E half NE qr and E half NW qr and E qr SW qr and NW SW	29	71	41	440
63	SE qr E half SW qr	1	72	41	240
64	S half of section, E half NE qr and NW qr NE qr	13	72	41	440
65	S half NW qr	19	72	41	80 82
66	E half of section SW qr E half NW qr	23	72	41	560
67	W half of section and NE qr	25	72	41	480
68	NE qr E half SE qr	27	72	41	240
69	SW qr	29	72	41	160
70	E half of section, SW qr NW qr NW qr	35	72	41	520
71	SW qr SW qr	19	73	41	37 17
72	E half NW qr and W half NE qr	19	73	42	160
73	W half SE qr SW qr	19	73	42	120
					9,439 $\frac{90}{100}$

SAMUEL J. KIRKWOOD.

23 *Page 3.—North of the base line and west of 5th principal meridian, Iowa.—The Burlington and Missouri river Council Bluffs Dist., Railroad list, 6 mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
74	NW qr NE qr	25	73	42	80
75	NE qr NW qr and SW qr NE qr	31	73	42	80
76	NW qr SE qr	31	73	42	40
77	NW qr W half SE qr	1	71	43	219 15/100
78	N half of sec. SE qr	3	71	43	431 24/100
79	E half SW qr and NW qr SW qr	3	71	43	120
80	NW qr SE qr, S half NE qr and N half SW qr	5	71	43	451 47/100
81	W half of sec. E half SE qr N half NE qr	9	71	43	480
82	N half NE qr and N half NW qr	11	71	43	160
83	S half of sec. and W half NW qr	17	71	43	400
84	NE qr NE qr	19	71	43	40
85	W half of sec. W half NE qr and NE qr NE qr	5	72	43	403 88/100
86	SW qr NW qr	7	72	43	41 81/100
87	NE qr	9	72	43	160
88	SE qr	17	72	43	160
89	W half of sec.	19	72	43	320 13/100
90	Whole of section	21	72	43	640
91	SW qr SW qr	23	72	43	40
92	Whole of section	27	72	43	640
93	E half of section, SW qr and W half NW qr	29	72	43	560
94	E half of section	31	72	43	320
95	W half of sec. W half NE qr and W half SE qr	33	72	43	480
96	E half of sec. and S half NW qr	35	72	43	400
97	S half of NE qr E half SE qr and NW qr NW qr	19	72	43	201 30/100
98	W half NE qr and W half SE qr	31	72	43	160
99	Whole of	1	72	44	542 95/100
100	Lot 1	11	72	44	15 68/100
101	W half NE qr and NE qr NW qr	13	72	44	120
102	NW qr SE qr and NE qr SW qr	13	72	44	80
103	E half NW qr and W half NE qr	25	72	44	160
104	W half SE qr and NE qr SW qr	25	72	44	120
105	Lots 2 and 3	23	73	44	64 50/100
106	Whole of	27	73	44	12 60/100
107	Lots 1, 2 and 3 and NE qr NW qr	35	73	44	191 27/100
					8,335 88/100

SAMUEL J. KIRKWOOD.

23 Page 4. RECAPITULATION.

Page 1	3,964 13/100
" 2	9,439 90/100
" 3	8,335 88/100
	21,740 91/100

Making a total of twenty-one thousand seven hundred and forty acres and one-hundredth o an acre.

SAMUEL J. KIRKWOOD

24 Page 5. GENERAL LAND OFFICE,
March 14*th*, 1862.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages one to four inclusive, is a true and correct list of the tracts of land within the six mile limits granted to the State of Iowa, by an act of Congress approved the 15th of May, 1856, entitled an act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a certain railroad in said State, being the vacant and unappropriated lands in the alternate sections designated by odd numbers for six sections in width on each side of the railroad from Burlington, on the Mississippi river, to a point on the Missouri river near the mouth of the Platte river, known as the Burlington and Missouri River Railroad, within the State of Iowa. And they are now submitted for the approval of the Secretary of the Interior, in accordance with the requirement of said act of 15th of May, 1856, subject to all its conditions and to any valid interfering rights which may exist to any of the tracts embraced in the foregoing lists.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed, at the city of Washington, on the day and year first herein above written.

[SEAL.] J. M. EDMUNDS,
Commissioner.

DEPARTMENT OF THE INTERIOR,
March 21*st*, 1862.

Approved, subject to the conditions and rights above mentioned.
CALEB SMITH, *Secretary.*
SAMUEL J. KIRKWOOD.

25 UNITED STATES OF AMERICA, *State of Iowa, ss:*

Know ye that I, Samuel J. Kirkwood, Governor of the State of Iowa, and keeper of the great seal thereof, do hereby certify that the foregoing papers, that is to say, a paper purporting to be a certificate of J. M. Edmunds, Commissioner of the General Land Office, dated General Land Office, March 25th, 1862; also a paper purporting to be a supplemental list of lands subject to sale at Council Bluffs within the six mile limits granted to the State of Iowa by the act of Congress, approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a certain railroad in said State," being the vacant and unappropriated in the alternate sections designated by odd numbers for six sections in width on each side of the railroad from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river, known as the Burlington and Missouri River railroad, said list occupying four pages, and numbered one, two, three and four, and a paper purporting to be a certificate of J. M. Edmunds, Commissioner, dated General Land Office, March 14th, 1862, to which is attached the words "ap-

proved, subject to the conditions and rights above mentioned,"
26 purporting to be signed by Caleb B. Smith, secretary, further dated Department of the Interior, March 24th, 1862; on each and all of which papers and pages I have affixed my signature by way of attestation on the right hand lower corner, are true copies of the originals, transmitted to me and by me deposited for safe keeping in the office of the register of the State Land Office of the State of Iowa.

In witness whereof, I have hereunto set my hand and caused to be affixed the great seal of the State of Iowa. Done at Des Moines this 12th day of April, in the year of our Lord one thousand eight hundred and sixty-two, of the independence of the United States the eighty-sixth and of this State the sixteenth.

SAMUEL J. KIRKWOOD.

{ THE GREAT SEAL OF THE STATE OF IOWA. }

By the Governor,
ELIJAH SELLS, *Secretary of State.*

[Copy.]

Exhibit "B."

GENERAL LAND OFFICE,
March 25th, 1862.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed, from page one to page five inclusive, is a true and literal exemplification of the original approved lists on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

{ UNITED GENERAL LAND OFFICE SEAL. }

J. M. EDMUNDS,
Commissioner of the General Land Office.
SAMUEL J. KIRKWOOD.

27 *Page* 1.—*North of the base line and west of the 5th principal meridian, Iowa.—The Burlington & Missouri River Railroad list, Council Bluffs Dist., 15 mile limit.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
1	NW	1	69	34	150.09
2	E ½ SW ¼ and SW ¼ of SW ¼	9	do	do	120
3	NE ¼ of SE ¼	15	do	do	80
4	N W½	17	do	do	160
5	SW ¼	21	do	do	160
6	NW ¼, W ½ SE ¼	23	do	do	240
7	E ½ of NW ¼	25	do	do	80
8	SE ¼	27	do	do	160
9	NE ¼ of NW ¼	29	do	do	40
10	NE ¼ of SE ¼	1	73	do	40
11	SE ¼ of SE ¼	15	do	do	40
12	SW ¼ of NW ¼	23	do	do	40
13	NE ¼, N ½ of NW¼	27	do	do	240
14	S ½ of SW ¼	29	do	do	80
15	W ½ SE ¼ and NE ¼ of NE ¼	31	do	do	120
16	W ½ of E½	3	68	35	62.71
17	NE¼	11	69	do	160
18	NW ¼, N½ NE ¼	13	do	do	240
19	SW ¼ of SE ¼ and SW ¼ of SW ¼	25	do	do	80
20	NE ¼ of NE ¼	27	do	do	40
21	S ½ of NE ¼ and NE ¼ of NE ¼	35	do	do	120
22	E ½ SE ¼	35	do	do	80
23	E ½ of NW ¼ and W ½ of SW ¼	7	68	36	183.10
24	E ½ NW ¼, S ½ NE ¼ and W ½ of SE ¼	9	do	do	240
25	NE ¼ of SE ¼ and NE ¼ of SW ¼	9	do	do	80
26	SW ¼, SW ¼ of NE ¼ and SE ¼ of NW ¼	1	69	do	240
27	W ½ of SE ¼ and SE ¼ of SE ¼	1	do	do	120
28	E ½ of sec	5	do	do	301.50
29	W ½ of sec	9	do	do	320
30	W ½ of NE, SE ¼ of NE ¼ and W ½ of SE ¼	23	do	do	200
31	NE ¼ of SE ¼	25	do	do	40
32	SE ¼, SE ¼ of NE ¼	27	do	do	200
33	SE ¼, W ½ of NE ¼ and NE ¼ of NE ¼	29	70	36	280
34	E ½ of NW ¼ and S ½ of SW ¼	33	70	do	160
35	N E ¼	7	73	do	160
36	SW ¼	9	69	37	160
37	SW ¼	15	do	do	160
					5,377.40

SAMUEL J. KIRKWOOD.

27 *Page 2.—North of the base line and west of the 5th principal meridian, Iowa.—The Burlington & Missouri River Railroad list, Council Bluffs Dist.,* 15 *mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
38	E ½ of sec and NW ¼	17	69	37	480
39	NE ¼, E ½ of NW ¼, and SW ¼ of NW ¼	19	do	do	281.35
40	*NW* ¼	21	do	do	160
41	*NW* ¼	29	do	do	160
42	W ½ of SE ¼ and E ½ of SW ¼	25	70	do	160
43	W ½ of S*E* ¼ and *NE* ¼ of SW ¼	29	73	do	120
44	SE ¼ of SE ¼	7	74	do	40
45	*N* ½ *NW* ¼ and SW ¼ of SW ¼	17	74	do	120
46	NW ¼ of *NE* ¼	13	73	38	40
47	SW of *NW* ¼ and *NW* of SW ¼	13	74	38	80
48	Whole of	5	69	39	607.94
49	Whole of	7	69	do	630.64
50	*E* ½ of *NW* ¼ and SW ¼ of *NW* ¼	1	70	do	119.10
51	*E* ½ of SW ¼ and SW ¼ of SW ¼	1	do	do	120
52	*NW* ¼	13	do	do	160
53	N ½ of SW ¼	5	69	40	80
54	S ½ of SW ¼ and SE ¼ of NE ¼	5	do	do	120
55	W ½ of SE ¼ and NE ¼ of SE ¼	5	do	do	120
56	N ½ of NE ¼, and N ½ of NW ¼, and SW ¼ of NW ¼	7	do	do	207.53
57	SE ¼, E ½ of NE ¼	1	70	do	239.94
58	W ½ of sec. and SW ¼ of NE ¼	13	do	do	360
59	NE ¼, W ½ of SE ¼, and E ½ of SW ¼	23	do	do	320
60	SE ¼, SE ¼ of NE ¼, and SE ¼ of SW ¼	27	do	do	240
61	SE ¼, S½ of NE ¼, and SE ¼ of SW ¼	33	do	do	280
62	W ½ of SW ¼ and W ½ of NW ¼	33	do	do	160
63	SW ¼, E ½ of NW ¼	1	73	do	235.23
64	W ½ of NW ¼ and W ½ of SW ¼	3	do	do	155.85
65	Whole of sec	9	do	do	640
66	S ½ of SE ¼ and NE ¼ of SE ¼	11	do	do	120
67	S ½ of sec., NW ¼ and S ½ of NE ¼	15	do	do	560
68	E ½ of SW ¼, W ½ of SE ¼, and SE ¼ of SE ¼	17	do	do	200
69	N ½ of sec	21	do	do	320
70	SE ¼, W ½ of NE ¼, and SE ¼ of NE ¼	15	74	do	280
71	E ½ of NW ¼ and SW ¼ of NW ¼	21	do	do	120
72	SW ¼ of NE ¼ and SE ¼	27	do	do	200
73	E ½ of SE ¼	33	do	do	80
74	Whole of section	5	69	41	626.80
					8,944.38

SAMUEL J. KIRKWOOD.

28 *Page 3.—North of the base line and west of the principal meridian, Iowa.—The Burliugton & Missouri River Railroad list, Council Bluffs Dist., 15 mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
75	SE ¼ of NE ¼ and NE ¼ of SE ¼	7	69	41	80
76	S ½ of sec. and E ½ of NE ¼	9	do	do	400
77	SW ¼ of NE ¼ and SW ¼ of NW ¼	9	do	do	80
78	S ½ of sec., S ½ of NE ¼, and S ½ of NW ¼	11	do	do	480
79	NW ¼ and W ½ of SW ¼	3	70	do	234.83
80	S ½ of sec., N ½ of NW ¼ and NE ¼	5	do	do	541.48
81	S ½ of NW ¼	5	do	do	80
82	E ½ of NE ¼ and E ½ of SE ¼	7	do	do	160
83	Whole of	9	do	do	640
84	NW ¼ of NW ¼	15	do	do	40
85	E ½ of sec. and NW ¼	17	do	do	480
86	W ½ of SW ¼ and NE ¼ of SW ¼	17	do	do	120
87	E ½ of SE and SW ¼ of SE ¼	19	do	do	120
88	E ½ of sec	21	do	do	320
89	W ½ of NW ¼	27	do	do	80
90	W ½ of sec , W ¼ of NE ¼, and W ½ of SE ¼	29	do	do	480
91	E ½ of NE ¼, E ½ of SE ¼, and SW ¼ of SE ¼	31	do	do	200
92	S ½ of SE ¼, S ½ of SW ¼, and NW ¼ of SW ¼	33	do	do	200
93	W ½ of SE ¼	27	71	do	80
94	SE ¼ of SE ¼	31	do	do	40
95	E ½ of sec. and SW ¼	33	do	do	480
96	E ½ of NW ¼ and NW ¼ of NW ¼	33	do	do	120
97	SE ¼ of SE ¼	13	73	do	40
98	W ½ of NW ¼	15	74	do	80
99	NE ¼ of SE ¼	21	do	do	40
100	E ½ of SE ¼ and SW ¼ of SE ¼	29	do	do	120
101	NE ¼, SW ¼ and N ½ of SE	1	73	42	390. 07
102	NE ¼, E ½ of SW ¼	5	do	do	234
103	E ½ of NE ¼ and E ½ of SE ¼	11	do	do	160
104	NW ¼ of NW ¼	13	do	do	40
105	W ½ of NW ¼	33	74	do	80
106	W ½ of NE ¼ and E ½ of NW ¼	3	69	43	145. 42
107	E ½ of sec., E ½ of SW ¼, and SE ¼ of NW ¼	5	69	do	429. 30
108	NE ¼ of SW ¼ and SW ¼ of SW ¼	1	70	do	80
109	W ½ of sec	3	do	do	310.45
110	Lots 1, 3 and 4, and NE ¼ of NE ¼	5	do	do	182. 54
111	E ½ of SE ¼ and SW ¼ of SE ¼	5	do	do	120
					7,908.00

SAMUEL J. KIRKWOOD.

29 *Page 4.—North of the base line and west of the 5th principal meridian, Iowa.—The Burlington & Missouri River Railroad list, Council Bluffs Dist.,* 15 *mile limits.*

No.	Parts of section.	Sec.	Tp.	R.	Acres.
112	S ½ of sec , W ½ of NW ¼, and SE ¼ of NW ¼	9	70	43	440
113	E ½ of NE ¼ and SW ¼ of NE ¼	9	do	do	120
114	W ½ of sec	11	do	do	320
115	S ½ of sec , S ½ of NE ¼ and S ½ of NW ¼	15	do	do	480
116	NW ¼, SE ¼, SW ¼, of NE ¼	17	do	do	360
117	E ½ of SW ¼ and NW ¼ of SW ¼	17	do	do	120
118	Lot 3	19	do	do	444.80
119	NW ¼, SE ¼, E ½ of NE ¼	21	do	do	400
120	N ½ of sec., S ½ of SE ¼ and S ½ of SW ¼	27	do	do	480
121	E ½ of sec., W ½ of NW ¼, and W ½ of SW ¼	29	do	do	480
122	S ½ of sec., E ½ of NE ¼, and NE ¼ of NW ¼	31	do	do	399.53
123	W ½ of sec., SE ¼ and W ½ of NE ¼	33	do	do	560
124	NW ¼, W ½ of SW ¼, and NW ¼ of NE ¼	21	71	do	280
125	E ½ of sec	29	do	do	320
126	SE ¼, S ½ of NE ¼, and NW ¼ of NE ¼	33	do	do	280
127	E ½ of SW ¼ and and SE ¼ of NW ¼	33	do	do	120
128	W ½ of SW ¼ and SE ¼ of SW ¼	35	do	do	120
129	SW ¼ of SE ¼	35	do	do	40
130	E ½ of SE ¼ and NW ¼ of SE ¼	1	73	do	120
131	E ½ of NW ¼ and E ½ of SW ¼	17	do	do	160
132	E ½ of NE ¼ and NW ¼ of NE ¼	13	do	44	120
133	NE ¼ of SE ¼	13	do	do	40
					5,804 33

Recapitulation.

Page 1	5,377.40.
" 2	8,944.38.
" 3	7,908.00.
" 4	4,804.33.
Total between 6 and 15 mile limits	28,034.11

SAMUEL J. KIRKWOOD.

30 GENERAL LAND OFFICE, *March 14th*, 1862.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages one to four inclusive, is a true and correct list of the tracts of lands selected by the agent of the State of Iowa outside of the six, and within the fifteen, mile limits, under an act of Congress approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," the said selections being from the lands of the United States in the alternate sections designated by the odd numbers most contiguous to the tier of sections within six sections in width on each side of the railroad "from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platt river, known as the Burlington and Missouri River Railroad," and being in lieu of the land in the alternate sections designated by odd numbers within said six sections in width on each side of said road, which the United States had legally sold, or to which the right of pre-emption had legally attached prior to the period at which the rights of the State inured under said grant; and they are now submitted for the approval of the Secretary of the Interior, in accordance with the requirements of said act of the 15th of May, 1856, subject to all its conditions and to any valid interfering rights which may exist to any of the tracts embraced in the foregoing list.

In testimony whereof, I have hereunto subscribed my name
31 and caused the seal of the General Land Office to be affixed, at the city of Washington, on the day and year first herein above written.

[SEAL.] J. M. EDMUNDS, *Commissioner.*

DEPARTMENT OF THE INTERIOR, *March 21st*, 1862.

Approved, subject to the conditions and rights above mentioned.

CALEB B. SMITH, *Secretary.*

UNITED STATES OF AMERICA, *State of Iowa, ss:*

Know ye that I, Samuel J. Kirkwood, governor of the State of Iowa and keeper of the great seal thereof, do hereby certify that the foregoing papers, that is to say, a paper purporting to be a certificate of J. M. Edmunds, Commissioner of the General Land Office, dated General Land Office, March 25th, 1862; also a paper purporting to be a supplemental list of land in the district of land subject to sale at Council Bluffs, outside of the six, and within the fifteen, mile limits of the reserve, to satisfy the grant made to the State of Iowa by an act of Congress approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate
sections, to aid in the construction of certain railroads in said
32 State," being the lands selected by the agent of the governor of the State of Iowa from the lands of the United States, in alternate sections and parts of sections designated by odd numbers nearest to the tier of sections within six sections in width on each side of the railroad from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river, and

in lieu of the lands in the alternate sections designated by odd numbers within said six sections in width which the United States had lawfully sold or otherwise appropriated, or to which the rights of pre-emption have attached, said lists occupying four pages, numbered by pages 1, 2, 3, and 4, and a paper purporting to be a copy of a certificate of J. M. Edmunds, commissioner, dated General Land Office, March 14th, 1862, to which is attached the words, "Approved, subject to the conditions and rights above mentioned," purporting to be signed by "Caleb B. Smith, secretary," and dated Department of the Interior, March the 21st, 1862, on each and all of which papers and pages I have affixed my signature, by way of attestation, on the right-hand lower corner, are true copies of the original transmitted to me, and by me deposited for safe-keeping in the office of the register of the State land office of the State of Iowa.

In testimony whereof, I have hereunto set my hand and caused to be affixed the great seal of the State of Iowa. Done at Des Moines this 12th day of April, in the year of our Lord one thousand eight hundred and sixty-two; of the independence of the United States the eighty-sixth, and of this State the sixteenth.

SAMUEL J. KIRKWOOD.

{ GREAT SEAL OF THE STATE OF IOWA. }

By the governor:

ELIJAH SELLS, *Sec. of State.*

33 *(Exhibit C.)—Page* 1.—*North of base line and west of the 5th principal meridean, Iowa. The Burlington and Missouri River Railroad list, Council Bluffs Dist.*, 6 *miles limits.*

No.	Parts of section.	Sec.	T.	R.	Acres.
1	W frac'l half of N W qr	5	71	34	75.21
2	NW qr of SW qr	5	71	34	40
3	W frac'l half of SW qr	7	70	35	69.78
4	SE qr	17	70	35	160
5	SW qr of NE qr	15	71	35	40
6	SE qr of NW qr	15	71	35	40
7	W half of NE qr	17	70	36	80
8	NW frac'l qr	19	71	37	153.48
9	NE qr of SE qr	29	71	37	40
10	W half of SE qr	29	71	37	80
11	SW qr of NE qr	29	71	38	40
12	SE qr of NW qr	29	71	38	40
13	NW qr of SE qr	29	71	38	40
14	NE qr of SW qr	29	71	38	40
15	W half of sec	29	72	39	320
16	SE qr	31	72	39	160
17	SW qr	17	72	43	160
					1,578.47

Making a total of one thousand five hundred and seventy-eight acres and forty-seven hundredths of an acre.

34[2] Page 2. [Within the six mile limits.]

GENERAL LAND OFFICE,
February 26th, 1863.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing, on page one, is a true and correct list of the tracts of land within the six mile limits granted to the State of Iowa by the act of Congress, approved the 15th of March, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," being the vacant and unappropriated lands in the alternate sections designated by odd numbers for six sections in width on each side of the railroad" from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river, known as the Burlington and Missouri River Railroad, within the State of Iowa; and they are now submitted for the approval of the Secretary of the Interior, in accordance with the requirements of said act of the 15th of May, 1856, subject to all its conditions and to any valid interfering rights which may exist to any of the tracts in the foregoing list.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed, at the city of Washington, on the day and year first hereinabove written.

J. M. EDMUNDS, *Commissioner*.

{ SEAL OF THE GENERAL LAND OFFICE OF THE U. S. }

DEPARTMENT OF THE INTERIOR,
April 7th, 1863.

Approved, subject to the conditions and rights above mentioned.

CALEB B. SMITH, *Secretary*.

35 (Copy.)

GENERAL LAND OFFICE, *April 11th*, 1863.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed, on pages one and two inclusive, is a true and literal exemplification of the original approved list on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, the day and year above written.

{ SEAL OF THE UNITED STATES GENERAL LAND OFFICE. }

J. M. EDMUNDS,
Commissioner of the General Land Office.

The Burlington & Missouri River Railroad Company.

Supplemental list of lands in the district of lands subject to sale at Council Bluffs within the six mile limits granted to the State of Iowa, approved the 15th day of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," being the

vacant and unappropriated lands, in alternate sections, designated by odd numbers, for six sections in width, on each side of the railroad from Burlington, on the Mississipi river to a point on the Missouri river, near the mouth of the Platte river," known as the Burlington & Missouri River Railroad.

36 (Copy.)

Exhibit D.

GENERAL LAND OFFICE, *April 11th*, 1863.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed from pages one to three inclusive, is a true and literal exemplification from the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

SEAL OF THE UNITED STATES GENERAL LAND OFFICE.

J. M. EDMUNDS,
Commissioner of the General Land Office.

37 *The Burlington & Missouri River railroad.*

Supplemental list of lands in the district of lands subject to sale at Council Bluffs, outside of the six and within the fifteen mile limits of the reserve to satisfy the grant made to the State of Iowa by the act of Congress, approved the 15th of May, 1856, entitled an act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State, being the lands selected by the agent of the governor of the State of Iowa, from the lands of the United States, in alternate and parts of sections, designated by odd numbers, nearest to the tier of sections within six sections in width, on each side of the railroad from Burlington, on the Mississippi river, to a point on the Missouri river, near the mouth of the Platte river, in lieu of lands in alternate sections designated by odd numbers within said six sections in width which the United States had legally sold or otherwise legally appropriated, or to which the rights of pre-emption had attached.

38 *Page* 1.—*North of the base line and west of the 5th principal meridian, Iowa.—The Burlington and Missouri River Railroad*
list. *Council Bluffs District,* 15 *mile limits.*

No.	Parts of sections.	Sections.	Township.	Range.	Acres.
1	NE frac'l qr	5	69	34	159.96
2	E half of NW qr	7	do	do	80.00
3	W half of NE qr	do	do	do	80.00
4	SW qr of NW qr	9	do	do	40.00
5	NW qr of SW qr	do	do	do	40.00
6	SW qr	13	do	do	160.00
7	NE qr	17	do	do	160.00
8	NE qr	23	do	do	160.00
9	SW qr of NE qr	11	70	34	40.00
10	NE qr of SE qr	do	do	do	40.00
11	W half of SE qr	do	do	do	80.00
13	W half of SE qr	1	69	35	80.00
14	E half of SW qr	do	do	do	80.00
15	SE qr	11	do	do	160.00
16	NE qr	33	do	do	160.00
17	NW qr of NW qr	11	73	35	40.00
18	N half of SW qr	do	do	do	80.00
19	NE frac'l qr	1	73	36	149.98
20	NE qr of SE qr	3	do	do	40.00
21	SE qr	5	do	do	160.00
22	NE qr	9	do	do	160.00
23	NE qr	33	74	36	160.00
24	SE qr	do	do	do	160.00
25	SE q.	7	69	37	160.00
26	NE qr	11	do	do	160.00
27	SE qr	15	do	do	160.00
28	NW frac'l qr of NW qr	19	do	do	41.02
29	E half of SW qr	5	70	37	80.00
30	SW qr of SW qr	do	do	do	40.00
31	E half of NE qr and SW qr of NE qr	7	do	do	120.00
32	E half of SW qr	do	do	do	80.00
33	SW fr'l qr of SW qr	do	do	do	35.43
34	E half of NW qr	27	73	37	80.00
35	NE qr of SW qr	do	do	do	40.00
36	W half of SE qr	11	69	38	80.00
12	E half of SW qr	do	do	do	80.00
					3,626.39

39 *Page 2.—North of base line & west of 5th principal meridean, Iowa.—The Burlington and Missouri River Railroad list. Council Bluffs Dist., 15 mile limits.*

No.	Parts of sections.	Sections.	Tp.	Range.	Acres.
	Amount brought forward				3,626.39
37	SE qr of SE qr	13	69	38	40.00
38	E half of NE qr	do	do	do	80.00
39	W half of NE qr	9	70	38	80.00
40	N half of NW qr	do	do	do	80.00
41	E half of NE qr	35	do	do	80.00
42	W half of section	33	71	38	320.00
43	NE qr of SE qr	7	70	39	40.00
44	NE qr of SE qr	17	73	40	40.00
45	W half of NE qr	7	73	41	80.00
46	N frac'l half of NW qr	do	do	do	74.12
47	W half of SE qr	11	do	do	80.00
48	SE qr of SW qr	do	do	do	40.00
49	NE qr of NE qr	11	70	43	40.00
50	W half of NW qr and SE qr of NW qr	13	do	do	120.00
51	SE qr of SW qr	do	do	do	40.00
					4,860.51

Making a total of four thousand eight hundred and sixty acres and fifty-one hundredths of an acre.

[Between the six and fifteen mile limits.]

40 GENERAL LAND OFFICE, *Feb.* 26, '63.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing, on pages one and two inclusive, is a true and correct list of the tracts of land selected by the agent of the State of Iowa outside of the six mile, and within the fifteen mile limits, under the act of Congress approved the 15th of May, 1856, entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State, the said selections being from the lands of the United States in the alternate sections designated by odd numbers most contiguously to the tier of sections within six sections in width on each side of the railroad, " from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river," known as the Burlington and Missouri River Railroad, and being in lieu of the lands in the alternate sections designated by odd numbers within said six sections in width on each side of said road, which the United States had legally sold, or to which the right of pre-emption had legally attached, prior to the period at which the rights of the State inured under said grant; and they are now submitted for the approval of the Secretary of the Interior, in accordance with the requirements of said act of 15th of May, 1856, subject to all its

conditions, and to any valid interfering rights which may exist, to any of the tracts embraced in the foregoing list.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed, at the city of Washington, the day and year hereinabove written.

J. M. EDMUNDS, *Commissioner.*

Approved, subject to the conditions and rights above mentioned.

J. P. USHER, *Secretary.*

41 And afterwards, to wit, on the 27th day of October, 1864, there was filed in the office of the clerk of the District Court of Mills county, Iowa, an "answer to petition as amended," in the words and figures following, to wit:

In the District Court of Mills' County.

Answer.

MILLS COUNTY, pl'ff, *vs.* THE BURLINGTON AND MISSOURI RIVER Railroad Company, def't.	In chancery.—(Equitable proceedings.)

THE STATE OF IOWA, *ss*:

Now comes the Burlington and Missouri River Railroad Company, the defendant herein, and reserving all advantage of cause of demurrer to plaintiff's petition, to the errors and insufficiencies therein, this defendant, answering to the petition as amended, says: This defendant denies having claimed or offered to sell, as alleged in said petition or otherwise, the land described as the east half of the southeast quarter of section one, and southeast quarter of southeast quarter of section one, township 73, north, range four west, and declines title thereto.

42 2d. This defendant denies that complainant is the owner of, or is possessed of, the legal title to the various tracts of land, or any part thereof, described in or attached to petitioner's bill, as in said bill or petition is alleged, or in any manner or by any right whatever. This defendant denies that said lands, or any part thereof, were duly selected under said acts of Congress and legislative acts, as in said bill alleged; denies that any such selection was ever made or returned, as required by law; denies that such selection was ever confirmed by act of Congress, as in said bill is stated and alleged, of any and all the lands designated in said bill.

3d. This defendant admits that the defendant claims to own all the lands in said bill and exhibit described, (except the tract first-named in this answer, as to which this defendant has disclaimed) as in said bill is alleged, by virtue of the act of Congress of the 15th of May, 1856, in said bill refered to, and certain acts of the legislature of the State of Iowa, and which are more particularly refered to hereinafter.

43 4th. This defendant has no knowledge or information, nor means of information, nor any on which to found a belief, and has no belief, as to the truth of the statement that complainant has contracted to sell certain of said lands, and therefore, if material, requires proof thereof, and denies the truth of said allegation.

5th. This defendant admits the offering for sale certain of said lands described in said petition and exhibit, and the sale of some tracts thereof, and claims the right so to do. This defendant avers and states that by an act of Congress, entitled ("An act or bill") respecting a grant of lands to the State of Iowa, in the alternate sections, to aid in the construction of certain railroads in said State" approved May the 15th, 1856, there was granted to the State of Iowa, for the purpose of aiding (among other things) in the construction of a railroad from Burlington on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river, certain lands of the United States, and that the general assembly of the State of Iowa by an act, entitled "An act to accept the grant
44 and carry into execution the trust confered upon the State of Iowa, in alternate sections, to aid in the construction of railroads in said State, approved May 15, 1856, granted to this defendant so much and all of the lands, interests, rights, powers, and privileges as were or might be granted or confered by said act of Congress of the 15th of May, 1856, to aid in the construction of the said railroad from said Burlington to said Missouri river, in like trust to aid in the construction of said last-named railroad; and that, in and by said act of assembley, this defendantis expressly recognized as a corporate body, created and existing under the laws of Iowa, and as the company and corporation refered to, and intended in said act of Congress as beneficiaries therein.

This defendant furthermore avers and states that the lands in said complainant's bill and exhibits described, (except the tract refered to hereinbefore as not owned or claimed by the defendant,) were and are a part of the lands so granted by act of Congress and said legislative acts of the State of Iowa to said State, and to this defendant, to aid in the construction of said railroad, from said Burlington to
45 said Missouri river, as aforesaid, and have been and are listed and set off, and certified and approved to this defendant on and under dates of the respective exhibits hereto annexed by the proper authority of the United States, under and by virtue of said act of Congress and said legislative act, as will more fully appear by certified copies of lists and certificates setting off the same, hereto annexed as a part of this answer, and respectively marked A, B, C, and D, the originals of which will be produced, and in evidence in the trial of this cause, which said lists and certificates confer legal titles to said lands in this defendant, and by virtue of which defendant makes and claims title thereto.

Wherefore this defendant denies the right of complainant to said lands, (except the tract described as aforesaid,) and says that this defendant has the better legal and equitable title thereto, and to each and every tract and parcel thereof. Defendant also denies the

right of complainant to the relief claimed, and all relief whatever, and asks that complainant's bill be dismissed. And this defendant, answering further, says that said railroad, and the line and
46 route thereof was actually surveyed and marked out on the ground as the permanent route thereof through the said county of Mills, in the State of Iowa, on and betwixt the 9th day of October, 1856, and the 15th day of October, 1856, by the line and route laid down and designated on the platt thereof, and of the adjacent lands, hereto annexed and marked Exhibit , to defendant's answer, and which is given as, and made a part of, this answer, with all the markings, writings, figures, and illustrations, localities and dates thereon entered and laid down, and all which defendant avers are true and correct in point of fact; and that said railroad line was thereafter, to wit, on the 24th day of March, 1857, formally accepted by said railroad company as the permanent line of said railroad through said Mills county, and that said adoption, when so made, related back to the time of the said actual survey and marking of the different sections indicated by flags on the line of said road, and that such different sections were respectively so surveyed and located and marked on the respective days thereto entered, and marked severally between said flags on said map, all which is given as a part of this answer. And now, being fully answered, deft. prays to be dismissed with judgment for def't's costs.

DAVID RORER,
Att'y & Solicitor for Defendant.

47 [Here follow maps, marked page 47, No. 1 & No. 2.]

OFFICE OF THE BURLINGTON AND MISSOURI RIVER RAILROAD COMPANY,

BURLINGTON, *Iowa, March 24th*, 1857.

It is hereby certified, that in pursuance of the act of the legislative assembley of the State of Iowa, approved July 24th, 1856, entitled An act to accept and carry into effect the trust confered on the State of Iowa by an act of Congress entitled "An act making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," approved May 15, 1856, this map shows the location and route of the Burlington and Missouri River railroad "from Burlington, on the Mississippi river to a point on the Missouri river, near the mouth of the Platte river," in the State of Iowa, as definitely fixed in compliance with said act of legislative assembley of the State of Iowa and the said act of Congress, and in pursuance of the orders of the board of directors of the Burlington and Missouri River Railroad Company. The said map truly represents the precise times when said sections, or part of the determinative line of said road, was fixed on the face of the earth by the usual and proper marking of the same, and by the execution of the field work thereof; that so much of said work as ex-
48 ecuted prior to the 15th of May, 1856, included between the points designated on said map by station flags marked No. 1 and No. 2, and that the remainder was marked and executed on the

respective days indicated along the line between the points designated by flags from No. 2 to No. 62, inclusive; that the several dates and points so marked was taken from the engineer's original field notes of survey and location of said line, and that the marking of the line and field work above refered to was executed by and under the direction of the chief engineer of said road, in accordance with the orders of the board of directors of said company.

In testimony whereof, the said Burlington and Missouri River Railroad Company has hereunto set and attached its corporate seal, and caused the same to be signed by its president and chief engineer, at Burlington, this 24th day of March, 1857.

(SEAL.)

W. F. COOLBAUGH,
President of the Bur. & Mo. R. R. R. Co.

H. THEELSON,
Chief Engineer Bur. & Mo. R. R. R. Co.

OLIVER COCK,
Secretary Bur. & Mo. R. R. R. Company.

Filed in the office of the Secretary of State March 27, 1857.

ELIJAH SELLS,
Sec'y of State.

OFFICE OF THE BURLINGTON AND MISSOURI RIVER RAILROAD COMPANY,
BURLINGTON, *Iowa*, *March* 24th, 1857.

It is hereby certified, that in pursuance of the act of the legislative assembly of the State of Iowa, approved July 14th, 1856, entitled "An act to accept of and carry into effect the trust conferred on the State of Iowa by an act of Congress, entitled 'An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State, approved May 15th, 1856,'" this map shows the location and route of the Burlington and Missouri River railroad from Burlington, on the Mississippi river, to a point on the Missouri river near the mouth of the Platte river, in the State of Iowa, as definitely fixed in compliance with the said act of the legislative assembly of the State of Iowa and the said act of Congress, and in persuance of the orders of the board of directors of the Burlington and Missouri River Railroad Company; that said map truly represents the precise times when said section, or part of the determinative line of said road was fixed on the face of the earth by the usual and proper marking of the same, and by the execution of the field work thereof; that so much of said work as was executed prior to the 15th day of May, 1856, is included between the points designated on said map by station flags, marked (No. 1 and No. 2,) and that the remainder was marked and executed on the respective days indicated along the line between the points designated by flags, from "No. 2 to No. 62," inclusive; that the several dates and points so marked were taken from the engineer's original field notes of survey and location of said line, and that the marking of the line and field work above referred to was executed by and under the direction of the chief engineer of said road, in accordance with the orders of the board of directors of said company.

In testimony whereof, the said Burlington and Missouri River Railroad Company has hereunto attached its corporate seal, and caused the same to be signed by its president and chief engineer at Burlington, this 24th day of March, 1857.

[L. S.] W. F. COOLBAUGH,
President of the Bur. & Mo. R. R. R. Co.
H. THIELSON,
Chief Engineer of the Bur. & Mo. R. R. R. Co.

Attest:
OLIVER COCK, *Secretary of Bur. & Mo. R. R. R. Co.*

GENERAL LAND OFFICE,
January 17th, 1865.

I, J. M. Edmunds, Commissioner of the General Land Office, hereby certify that the map or platt hereunto attached is a correct and true exemplification of the map or platt filed in this office on the 6th day of April, 1857, by the Burlington and Missouri River Railroad Company, on which is delineated the line of said railroad, as the same is definitely fixed, so far as said road runs through the counties of Adams, Montgomery, and Mills, in the State of Iowa, as exhibited on said map.

And I further certify that the certificate herewith attached, purporting to be a certificate of the president, secretary, and chief engineer of said railroad company, is a full, true, and correct copy of the certificate attached to the said map of said line of road, and filed therewith in this office by said company on the 6th day of April, 1857, as aforesaid.

In testimony whereof, I have hereunto subscribed my name and caused to be affixed the seal of the General Land Office, at Washington city, on the day first above written.

[L. S.] J. M. EDMUNDS, *Commissioner.*

[5-cent U. S. int. rev. stamp.]

49 OFFICE OF THE SECRETARY OF STATE,
Des Moines, Iowa.

I, James Wright, secretary of state of the State of Iowa, hereby certify that the map and plat hereto attached is a correct copy of the map or plat of the line of the Burlington and Missouri River railroad filed in the office of the secretary of state of Iowa, on the 27th day of March, 1857, so far as the same relates to Mills county; that said map or plat hereto attached exhibits correctly the line of said railroad, the boundaries of townships and sections, the water courses and streams, the station-flags, and marks and situation of towns and cities correctly as the same are delineated on said map or plat, filed as aforesaid by said railroad co., in the office of said secretary of state; and I further certify that the instrument of writing hereto attached, purporting to be a certificate of the president and secretary of said railroad company, attested by the chief engineer of said company, is a true and correct copy of the instrument of writing attached to the map or plat of said railroad company, filed as

aforesaid in the office of said secretary of state, on the 27th of March, 1857, and which remain attached thereto and on file in said office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Iowa, done at Des Moines, this 9th day of September, 1867.

JAMES WRIGHT,
Secr'y of State.

[Great seal of the State of Iowa.]

[U. S. rev. stamp, B. & M. R. R. Co.]

Sep. 9th, 1864.

50 And afterwards, to wit, on the 30th day of January, A. D. 1865, there was filed in the office of the clerk of the District Court of said county a "notice of suing out commission to take depositions," in words and figures following, to wit:

District court of Mills county, Iowa.

MILLS COUNTY
vs.
THE BURLINGTON AND MISSOURI RIVER RAILROAD Company. } Chancery.

The defendant in the above-entitled cause will take notice that on the 15th day of February, 1865, between the hours of 8 o'clock a. m. and 8 o'clock p. m. we will sue out of the office of the clerk of the District Court of Mills county, Iowa, at Glennwood, in said county, a commission appointing John S. Hollingshead, a notary public, in the city of Washington, D. C., commissioner, to take the deposition of Hon. J. M. Edmunds, Commissioner of the General Land Office, and Joseph S. Wilson, esq., of said city and district, which depositions, when taken, are to be used, on the part of the plaintiff, as evidence on the trial of said cause; and that the interrogatories hereto attached are true and correct copies of the interrogatories to be propounded to each of said witnesses.

WM. HALE and J. A. HARVEY,
Att'ys for Plaintiff.

51 *Copies of interrogatories to be propounded to each of the witnesses named in the foregoing notice on behalf of plaintiff.*

Int. 1. Please state your present place of residence, and also what office or position you hold?

Int. 2. State how long you have occupied that position.

Int. 3. State how long you have been engaged in business at the General Land Office.

Int. 4. State whether there has been filed in the General Land Office the following described map or plat; and if there has, pleas state when it so was filed, to wit, the map or plat of the line of the

Burlington and Missouri River railroad, on which station flags are marked, and on which is delineated the line of said road as actually surveyed and definitely fixed.

Int. 5. Pleas state when (if at all) the map or plat on which is delineated the line of said railroad as actually surveyed and definitely fixed, was filed in the General Land Office.

Int. 6. Pleas state when the list of lands selected in Mills county, Iowa, as swamp and overflowed lands, under act of Congress of September 28th, 1850, was filed in the General Land Office; and if more than one list of such lands were filed, pleas state the time of the filing of each.

Int. 7. Pleas state whether any one, as agent of the State of Iowa, selected the lands in odd numbered sections between the six
52 and fifteen mile limits of road, as railroad lands, under act of May 15th, 1856.

Int. 8. If said selections were made by any one as agent of the State, pleas state who he was.

Int. 9. Pleas state how and when the selections of said lands between the 6 and 15 mile limits along said road were made, and especially in the Council Bluffs land district.

Int. 10. Plas state whether any one, as agent and on behalf of the State, furnished to the General Land Office a list of the lands thus selected in odd numbered sections outside of the six, and within the fifteen, mile limits of said road, in said district, to be approved and certified as railroad land; if yea, state who he was, and when said list was presented and filed in the General Land Office.

On the back of this notice is the officer's return, in the words and figures following, to wit:

STATE OF IOWA, *Des Moines County, ss*:

I received this notice and interrogatories January 21st, 1865, and on the same day I served the same on E. C. Perkins (acting superintendant of the Burlington and Missouri River Railroad Company) by reading this notice and interrogatories to him and delivering to him a true copy thereof, in the city of Burlington, Des Moines county, Iowa.

M. HEISEY,
Sheriff Des Moines Co., Iowa.

Service	50 cts.
Copy	40
Milage	10
	$1 00

P'd by pl'ff's att'y.

53 District Court of Mills county, Iowa, in the State of Iowa.

MILLS COUNTY
vs.
BURLINGTON AND MISSOURI RIVER RAILROAD Company.

The defendant files these his objections to all the cross-interrogatories, and also to each one thereof seperately; for this, the evidence sought by oral proof is not the highest evidence susceptable of being had, but that exemplified copies of the files and documents of the departments and endorsments thereon (if any there be) can alone be used.

D. RORER,
Att'y for Def't.

January 23d, 1865.

54 In the District Court of Mills county, Iowa.

Copy of "notice to produce copy of record."

MILLS COUNTY
vs.
BURLINGTON AND MISSOURI RIVER RAILROAD Company. } Chancery.

The defendant in the above-entitled cause is hereby notified to produce for evidence, on the trial of said cause, the record of the board of directors of said railroad company, showing the time and proceedings of the meeting of the board at which the line of said road was adopted, after the same had been actually surveyed and staked off to the Missouri river, and station flags marked on the map along said line; and if said record is not produced on said trial, I will by parol the time and action of said board at said meeting.

HALE and HARVEY,
Attorneys for Plaintiff.

Officer's return.

STATE OF IOWA, *Des Moines County:*

I received this notice on the 20th day of February, 1865. I
55 served the same on C. E. Perkins, acting superintendant of B. & M. R. R. R. Co., by reading this notice to him and delivering to him a true copy thereof, in the city of Burlington, Des Moines county, Iowa.

M. HEISEY,
Sheriff Des Moines County, Iowa.

Service	50
Copy	25
2 milage	20
Postage	5
	$1 00

Paid by pl'ff's att'y.

And afterwards, to wit, on the 18th day of April, 1865, there was filed in open court a "motion to suppress depositions," in the words and figures following, to wit:

District Court.—April term, 1865.

Motion of def't.

MILLS COUNTY
vs.
BURLINGTON & MISSOURI RIVER RAILROAD COMPANY.

MILLS COUNTY, *to wit*:

The defendant moves the court to suppress the depositions of N. Lathrop & J. M. Dews taken in this cause, marked filed as of December 17th, 1864, for the reason that for irrelevancy and incompetency; also the deposition of Joel Solomon, Wm. Street, and D. H. Solomon filed March 14th, 1865, for the same reason or objection; also the deposition of N. P. Woods, J. M. Dews, and N.
56 Lathrop filed Nov. 2d, 1864, for the same cause or objection, irrelevancy and incompetency; also the deposition of Wm. Kempton, A. P. Wright, Wm. Street & Frank Street, and exhibits filed with same, filed April 15th, 1865, for the same reasons or objections; also the deposition and exhibits last named as irrelevant, and also incompetent in law.

D. RORER, *Att'y for Defendant.*

And afterwards, to wit, on the 24th day of February, 1865, there was filed in the office of the clerk of the District Court of said county a "notice of appeal," in the words and figures following, to wit:

In the District Court of said county, equitable proceedings.

Decree in favor of plaintiff.

MILLS COUNTY, pl'ff,
vs.
THE BURLINGTON & MISSOURI RIVER Railroad Co., def't.

STATE OF IOWA, *Mills County*:

To the clerk of the District Court of Mills county, in the State of Iowa, and to William Hale, Ewing & Hale, and Hale & Ewing, attorneys for the plaintiff in the above-entitled cause:

GENTLEMEN: You are hereby notified that the defendant
57 appeals in this case from the decision and final decree of said District Court to the Supreme Court of the State of Iowa. You, the said clerk, will send up a full transcript of all the record, entries, and original files, except the depositions, and other papers, documents and map used as evidence, of which send the original.

Feb. 6th, 1866.

DAVID RORER, *Att'y for Deft.*

DES MOINES, *Feb'y 8th*, 1866.

I hereby acknowledge due and legal service of the within notice on me, as attorney for plaintiff, on this day.

WM. HALE, *Att'y for Plaintiff.*

GLENWOOD, *Feb. 24th*, 1866.

The within notice served on me, the clerk of said county, this day, and by me filed.

H. A. COPELAND, *Clerk D. C.*

58 Be it remembered, that at a regular term of the District Court of Mills county, Iowa, begun and held at the court-house, in Glenwood, in said county, on the 18th day of April, 1864, present, James G. Day, sole judge, among other business then and there had is the following:

1ST DAY, *April 18th*, 1864.

The entries in vacation were read, approved, and duly signed by the court, among which is the following, to wit:

MILLS COUNTY, IOWA, *vs.* THE B. & M. R. R. R. Co.

Now, at this time, to wit, April 8th, 1864, comes the defendant herein by her att'y, David Rorer, and files answer to pl'ff's petition.

And further, on the first day of said term, to wit, April 18th, 1864, is the following, to wit:

Chancery.

MILLS COUNTY, IOWA, *vs.* THE B. & M. R. R. R. Co. } No. 61.

Plaintiff has until Wednesday morning to file replication to defendant's answer.

59 And on the 3d day of said term, to wit, April 20th, 1864, is the following, to wit:

MILLS COUNTY, IOWA, *vs.* THE B. & M. R. R. R. Co. } No. 61.

Comes now the plaintiff herein, by her att'y, and asks for time to file replication to defendant's answer; whereupon the plaintiff is allowed forty days from the adjournment of this court to file replication herein, and this cause stands continued.

At the regular term of said court, begun and held at the court-house, in Glenwood, in said county, on the 17th day of October, 1864, present Hon. James G. Day, sole judge, are the following proceedings, to wit:

1ST DAY, *October* 17, 1864.

Entries in vacation read and duly approved and signed by the court, among which is the following, to wit:

MILLS COUNTY
vs.
THE B. & M. R. R. R. CO. } No. 61.—Chancery.

Now, at this day, to wit, August 10, 1864, comes the plaintiff herein by her att'ys, Ewing, Hale & Harvey, and files amended petition herein.

60 And on the 7th day of said term, to wit, October 24th, 1864, is the following, to wit:

MILLS COUNTY, IOWA,
vs.
THE BURLINGTON AND M. R. R. R. CO. } No. 61. Chancery.

Continued generally.

And at the regular term of said court, begun and held at the court-house, in Glenwood, in said county, on the 17th day of April, 1865, Hon. James G. Day, presiding, and on the 2d day of said term, to wit, April 18th, 1865, is the following, to wit:

MILLS COUNTY, IOWA,
vs.
THE B. AND M. R. R. R. CO. } No. 61.

Comes now the defendant in this cause, by her attorney, Mr. Rorer, and files exemplification certificates, marked No. 1 and 2, from the General Land Office and Interior Department of the United States, to be used as evidence in this cause.

And further, on the same day of the said term, is the following, to wit:

61 MILLS COUNTY, IOWA,
vs.
THE BURLINGTON AND MISSOURI RIVER RAILroad Co. } No. 61. In chancery.

Now, at this time, this cause comes up on defendants motion to suppress plaintiff's depositions, and pending the argument the court adjourned until to-morrow morning.

And on the third day of said term, to wit, April 19th, 1865, there is the following, to wit:

MILLS COUNTY, IOWA,
vs.
THE BURLINGTON AND MISSOURI RIVER RAILroad Company. } No. 61. Chancery.

The further argument of defendants' motion in this cause is, by consent of counsel, defered until the trial of this cause.

And further, on the same day of the said term of said court, there is the following, to wit:

MILLS COUNTY
vs.
THE B. AND M. R. R. R. CO. } Chancery.

Now comes the plaintiff and asks leave to file a replication, in words and figures following, to wit:

62 District Court, Mills county, Iowa.

MILLS COUNTY
vs.
THE BURLINGTON AND MISSOURI RIVER RAILroad Co. } April term, 1865.

And now comes the plaintiff in the above-entitled cause and for replication herein denies each and every affirmative allegation in defendant's answer, and alleges that the exhibits attached to defendant's answer, purporting to be certificates and lists of lands from the Commissioner of the General Land Office, were obtained through fraud and connivance, for the purpose of injury, and casting a cloud of the title of plaintiff to said lands, or so much thereof as are in controversy in this action. Plaintiff hereby reaffirms the allegations in his petition, and says the same are true, and therefore asks a decree as prayed for in his said petition.

WM. HALE & THOMAS EWING,
Atty's for Plaintiff.

Which leave the court refused, (to which plaintiff, by her counsel, excepts,) it being objected to by defendant; and therefore this cause came on for trial on the merits, and the court having heard the evidence, consisting of the documents and exemplifications filed in this cause, and of the depositions, (subject to the objections in defendants' motion to exclude the same;) and also having heard the argu-
63 ment of the respective counsel, this cause is taken under advisement for decision to be made and filed as of this term. Each party has leave to present to the judge written arguments with brief of authorities, furnishing his opponent also with the same.

And on the 5th day of said term, is the following, to wit:

MILLS COUNTY, IOWA,
vs.
THE BURLINGTON AND MISSOURI RIVER RAILroad Company. } No. 61.

APRIL 21*st*, 1865.

Now, at this time, this cause coming on to be heard, and the court having heard and examined the allegations of the parties, the evidence submitted, and the arguments of the counsel, and being fully advised in the premises, finds the facts stated in the petition and amended petition herein to be true, and that the plaintiff is entitled to the relief therein prayed for. It is therefore considered, adjudged, and decreed by the court that the title in fee simple to the lands described in plaintiff's petition, to wit:

Swamp Lands, *county, Iowa.*

	Parts of section.	Sec.	Town	R'ng.	Area.
64	W half of NE qr and NE qr of NE qr	5	72	40	
	N half of N W qr	do	do	do	
	SE qr of NW qr	do	do	do	
	SW qr of SW qr	do	do	do	
	N half of	7	do	do	
	SW qr of	7	do	do	
	E half of SE qr	do	do	do	
	NW qr of	17	do	do	
	West half of	19	do	do	
	E half of NW qr	1	73	40	
	SW qr of	1	do	do	
	W half of NW qr	3	do	do	
	W half of SW qr	do	do	do	
	Whole of	9	do	do	
	S half of SE qr	11	do	do	
	NE qr of SE qr	do	do	do	
	W half of	15	do	do	
	SE qr of	do	do	do	
	S half of NE qr	do	do	do	
	E half of SW qr	17	do	do	
	W half of SE qr	do	do	do	
	SE qr of SE qr	do	do	do	
	Whole of	21	do	do	
	E half of	29	do	do	
	NW qr of	do	do	do	
	E half of SW qr	do	do	do	
	NW qr of SW qr	do	do	do	
	W half of	31	do	do	
	SE qr of	31	do	do	
	W half of NE qr	do	do	do	
65	NE qr of NE qr	31	73	40	
	Whole of	9	71	41	
	NW qr of	11	do	do	
	W half of SW qr	do	do	do	
	NW qr of NE qr	do	do	do	
	Whole of	15	do	do	
	NE qr of NE qr	17	do	do	
	E half of	21	do	do	
	SW qr of	do	do	do	
	NE qr of NW qr	do	do	do	
	W half of	27	do	do	
	W half of NE qr	do	do	do	
	W half of SE qr	do	do	do	
	SE qr of	29	do	do	
	E half of NE qr	do	do	do	
	E half of NW qr	do	do	do	
	E half of SW qr	do	do	do	
	NW qr of SW qr	do	do	do	
	SE qr of	1	72	41	
	E half of SW qr	do	do	do	
	S half of	13	do	do	
	E half of NE qr	do	do	do	
	NW qr of NE qr	do	do	do	
	S half of NW qr	19	do	do	
	E half of	23	do	do	
	SW qr of	do	do	do	
	E half of NW qr	do	do	do	
	W half of	25	do	do	
	NE qr of	do	do	do	
	NE qr of	27	do	do	
66	E half of SE qr	do	do	do	

Swamp lands, county, Iowa.—Continued.

Parts of section.	Sec.	Town	R'ng.	Area.
SW qr of	29	72	41	
E half of	35	do	do	
SW qr of	do	do	do	
NW qr of NW qr	do	do	do	
SW qr of SW qr	19	73	41	
NE qr of	1	73	42	
W half of SE qr	do	do	do	
SW qr of	do	do	do	
NE qr of	5	do	do	
E half of SW qr	do	do	do	
E half of NE qr	11	do	do	
E half of SE qr	do	do	do	
NW qr of NW qr	13	do	do	
E half of NW qr	19	do	do	
W half of NE qr	do	do	do	
W half of SE qr	do	do	do	
SE qr of SW qr	do	do	do	
N half of NE qr	25	do	do	
NE qr of NW qr	31	do	do	
SW qr of NE qr	do	do	do	
NW qr of SE qr	do	do	do	
NW qr of	1	71	43	
W half of SE qr	do	do	do	
N half of	3	do	do	
SE qr of	do	do	do	
E half of SW qr	do	do	do	
NW qr of SW qr	do	do	do	
NW qr of	5	do	do	
N half of SW qr	do	do	do	
S half of NE qr	do	do	do	
67 SE qr of	5	71	43	
W half of	9	do	do	
W half of NE qr	do	do	do	
E half of SE qr	do	do	do	
N half of NE qr	11	do	do	
N half of NW qr	do	do	do	
S half of	17	do	do	
W half of NW qr	do	do	do	
NE qr of NE qr	19	do	do	
NW qr of	21	do	do	
W half of SW qr	do	do	do	
NW qr of NE qr	do	do	do	
E half of	29	do	do	
NW qr of NE qr	33	do	do	
S half of NE qr	do	do	do	
SE qr of NW qr	do	do	do	
SE qr of	do	do	do	
E half of SW qr	do	do	do	
W half of SW qr	35	do	do	
SE qr of SW qr	do	do	do	
SW qr of SE qr	do	do	do	
W half of	5	72	43	
W half of NE qr	do	do	do	
SW qr of NW qr	7	do	do	
SW qr of	17	do	do	
W half of	19	do	do	
Whole of	21	do	do	
SW qr of SW qr	23	do	do	
Whole of	27	do	do	
E half of	29	do	do	
SW qr of	do	do	do	

Swamp Lands, *County, Iowa.—Continued.*

	Parts of sections.	Sec.	Town.	R'ng.	Area.
68	W half of NW qr	29	72	43	
	E half of	31	do	do	
	E half of	33	do	do	
	W half of NE qr	do	do	do	
	W half of SE qr	do	do	do	
	E half of	35	do	do	
	S half of NW qr	do	do	do	
	NE qr of	5	73	43	
	N half of NW qr	do	do	do	
	NW qr of SE qr	do	do	do	
	SE qr of SW qr	do	do	do	
	W half of	7	do	do	
	SE qr of	do	do	do	
	W half of NE qr	do	do	do	
	SE qr of NE qr	do	do	od	
	E half of NW qr	17	do	do	
	E half of SW qr	do	do	do	
	NW qr of NW qr	19	do	do	
	SW qr of NE qr	do	do	do	
	E half of SE qr	do	do	do	
	W half of NE qr	31	do	do	
	W half of SE qr	do	do	do	
	Whole of	1	72	44	
	Lot 1 in	11	do	do	
	NE qr of NW qr	13	d3	do	
	W half of NE qr	do	do	do	
	NW qr of SE qr	do	do	do	
	NE qr of SW qr	do	do	do	
	E half of NW qr	25	72	44	
	W half of NE qr	do	73	44	
	W half of SE qr	do	do	do	
69	NE qr of SW qr	25	72	do	
	NE qr of NE qr	1	73	do	
	S half of SE qr	do	do	do	
	SE qr of SW qr	do	do	do	
	E half of NE qr	13	do	do	
	NW qr of NE qr	do	do	do	
	NE qr of SE qr	do	do	do	
	Lots No. 2 and 3 in	23	do	do	
	Lot No. 1 in	27	do	do	
	NE qr of NW qr	35	do	do	
	Lots 1, 2, and 3 in	do	do	do	

70 West of the 5th principal meridian, amounting in the aggregate to twenty-three thousand three hundred and twenty-five and 87-100 acres, and every part and parcel thereof, is legally vested in the plaintiff, Mills County, Iowa; and it is adjudged and decreed by the court that the said plaintiff is the owner in fee simple of said lands, and is entitled to the uninterrupted control, use, benefit, and enjoyment of the same; and it is further adjudged and decreed that the claim of the defendant, to wit, the Burlington and Missouri River Railroad Company, to said land, and to each and every parcel thereof, is illegal, null, and void; and it is further adjudged that the defendant pay the costs of this suit, taxed at forty-seven dollars and fifteen cents, and that execution issue therefor.

Fee-bills.

Clerk's fees, $6 05; taking depositions, $17 50; sheriff's fees, $8 00; witnesses, $18 00; this transcript, $18 50.

71 STATE OF IOWA, *Mills County, ss:*

I, H. A. Copeland, clerk of the District Court in and for said county, do hereby certify that the foregoing, from pages one to , inclusive, is a true, perfect, full, and complete transcript of all the record entries and original files (except papers used as evidence) in the case of Mills County *vs.* The Burlington and Missouri River Railroad Company, and that said record entries are duly signed by James G. Day, judge of the 3d judicial district of Iowa, as full, perfect, and complete, as the same now appear of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office in Glenwood, in said county, this 15th day of March, 1866.

[SEAL.] H. A. COPELAND, *Clerk.*

72 GENERAL LAND OFFICE,
Oct. 6th, 1864.

I, J. M. Edmunds, commissioner of the general office, do hereby certify that the following are true extracts, as herein more particularly stated, on pages 9 and 10, to wit:

List of swamp lands in the Missouri river land district, Iowa.—Swamp lands, No. 1, county, Iowa.

	Parts of section.	Sec.	Town.	R'ng.	Acres.
		o	o	o	
		o	o	o	
73	N fr half of NE qr	5	72	40	53.12
	SW qr of NE qr	do	do	do	40
	SE qr of NW qr	do	do	do	40
	N fr half of NW qr	do	do	do	53.84
	SW qr of SW qr	do	do	do	40
	N fr half of NE qr	6	do	do	54.14
	SW qr of NE qr	do	do	do	40
	N fr hf of NW qr	do	do	do	51.30
	SE qr of NW qr	do	do	do	40
	SW fr qr of NW qr	do	do	do	36.41
	SW fr qr of NE qr	do	do	do	37.64
	SE qr of SW qr	do	do	do	40
	NE qr of SW qr	do	do	do	40
	NW qr of SW qr	do	do	do	37.04
	W half of SE qr	do	do	do	80
	SE qr of SE qr	do	do	do	40
	NW fr qr of NW qr	7	do	do	38.32
	SW fr qr of NW qr	do	do	do	39.09
	NW fr qr of SW qr	do	do	do	39.85
74	SW qr of SW qr	do	do	do	40.62
	E half of NW qr	do	do	do	80
	E half of SW qr	do	do	do	80
	NE qr	do	do	do	160
	E half of SE qr	do	do	do	80
	W half	8	do	do	320
	NW qr of NW qr	17	do	do	40
	NE qr of NE qr	18	do	do	40
	NW fr qr	8	do	do	162.72
	E half of SW qr	do	do	do	80
	SW qr of NW qr	17	do	do	40
	W half of NE qr	18	do	do	80
	SE qr of NE qr	do	do	do	40
	SE qr	do	do	do	160
	NW fr qr of SW qr	do	do	do	41.14
	SW fr qr of SW qr	do	do	do	41.20
	NW fr qr of NW qr	19	do	do	41.09
	SW fr qr of NW qr	do	do	do	40.84
	E half of NW qr	do	do	do	80
	NE qr	do	do	do	160
	NW fr qr of NE qr	1	73	do	35.20
	NE fr qr of NW qr	do	do	do	35.23
	SW qr of NE qr	do	do	do	40
	SE qr of NW qr	do	do	do	40
	SW qr	do	do	do	160
	NW fr qr of NW qr	3	do	do	35.85
	SW fr qr of NW qr	do	do	do	40
	W half of SW qr	do	do	do	80
75	NE fr qr of NE qr	4	do	do	35.94
	NW qr of NE qr	do	do	do	36.03
	S half of NE qr	do	do	do	80
	SE qr	do	do	do	160
	All of	9	do	do	640
	W half	10	do	do	320
	S half of SE qr	11	do	do	80
	NE qr of SE qr	do	do	do	40

List of swamp lands, &c.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.
W half	12	73	40	320
NE qr	14	do	do	160
NW qr of SE qr	do	do	do	40
S half of NW qr	do	do	do	80
SW qr	do	do	do	160
W half of NE qr	15	do	do	80
SE qr NE qr	do	do	do	40
NW qr	do	do	do	160
SW qr	do	do	do	160
SE qr	do	do	do	160
W half of SE qr	17	do	do	80
SE qr of SE qr	do	do	do	40
E half of SW qr	do	do	do	80
NE qr	20	do	do	160
NE qr of NW qr	do	do	do	40
SE qr	do	do	do	160
All of	21	do	do	640
W half	22	do	do	320
NE qr	do	do	do	160
N half	28	do	do	320
W half of SE qr	do	do	do	80
76[3] N half of SWqr	28	do	do	80
All of	29	do	do	640
SE qr	30	do	do	160
SE qr of SW qr	do	do	do	40
SW fr qr of SW qr	do	do	do	34 .58
W half of NE qr	31	do	do	80
NE qr of NE qr	do	do	do	40
E half of NW qr	do	do	do	80
SW fr qr of NW qr	do	do	do	34 .96
NW fr qr of NW qr	do	do	do	34 .65
SE qr	do	do	do	160
E half of S— qr	do	do	do	80
NW fr qr of SW qr	do	do	do	35 .26
SW fr qr of SW qr	do	do	do	35 .57
N fr half of NE qr	2	71	41	56 .81
S half of NE qr	do	do	do	80
S half of NW qr	do	do	do	80
W half of SE qr	do	do	do	80
NE qr of SE qr	do	do	do	40
SW qr	do	do	do	160
SE qr of NE qr	3	do	do	40
E half of SE qr	do	do	do	80
SW qr of SE qr	do	do	do	40
S half of SW qr	do	do	do	80
N fr half of NE qr	6	do	do	53 .30
SE qr of NE qr	do	do	do	40
E half of SE qr	do	do	do	80
77 E half of NW qr	8	71	40	80
E half of SW qr	do	do	do	80
NE qr	do	do	do	160
SE qr	do	do	do	160
All of	9	do	do	640
All of	10	do	do	640
NW qr	11	do	do	160
NW qr of NE qr	do	do	do	40
W half of SW qr	do	do	do	80
W half of NW qr	do	do	14	80
All of	do	do	15	640

List of swamp lands, &c.—Continued.

Parts of section.	Sec.	Town.	R'nge.	Acres.
NE qr of NE qr	17	71	15	40
All of	21	do	do	640
West half	22	do	do	320
W half of NE qr	do	do	do	80
W half of SE qr	do	do	do	80
West half	27	do	do	320
W half of NE qr	do	do	do	80
All of	28	do	do	640
East half	29	do	do	320
E half of NW qr	do	do	do	80
E half of SW qr	do	do	do	80
SE qr of SE qr	31	do	do	40
E half of NW qr	32	do	do	80
NE qr	do	do	do	160
SE qr	do	do	do	160
SW qr	do	do	do	160
All of	33	do	do	640
West half	34	do	do	320
78 SE qr	1	72	41	160
E half of NE qr	12	do	do	80
E half of SE qr	do	do	do	80
East half	13	do	do	320
SW qr	do	do	do	160
S half of SE qr	14	do	do	80
E half of SW qr	do	do	do	80
NW fr qr of NW qr	18	do	do	39.72
SW fr qr of NW qr	do	do	do	39.97
NW fr qr of SW qr	do	do	do	40.22
SW fr qr of SW qr	do	do	do	40.47
NW fr qr of NW qr	19	do	do	40.69
SW fr qr of NW qr	do	do	do	40.87
E half of NW qr	do	do	do	80
E half of SW qr	do	do	do	80
NW fr qr of SW qr	do	do	do	41.04
E half of NW qr	23	do	do	80
NE qr	do	do	do	160
SE qr	do	do	do	160
SW qr	do	do	do	160
S half of SE qr	22	do	do	80
All of	24	do	do	640
NE qr	25	do	do	160
West half	do	do	do	320
All of	26	do	do	640
NE qr	27	do	do	160
E half of SE qr	do	do	do	80
NE qr	34	do	do	160
E half of NW qr	do	do	do	80
79 NW qr of NW qr	34	72	41	40
All of	35	do	do	640
NW qr	36	do	do	160
North fr half NE qr	1	72	42	62.18
S half of NE qr	do	do	do	80
E half of SE qr	do	do	do	80
E half of NE qr	do	do	do	80
SE qr	12	do	do	160
N fr half of NE qr	do	do	do	62.44
S half of NE qr	do	do	do	80
W half of SE qr	do	do	do	80
NE qr of SE qr	do	do	do	40

List of swamp lands, &c.—Continued.

	Parts of Section.	Sec.	Town.	R'nge.	Acres.
	NW fr qr of NW qr	7	72	42	35.68
	NE qr of NW qr	do	do	do	40
	NE fr qr of NE qr	1	73	42	35.27
	NW qr of NE qr	do	do	do	34.80
	S half of NE qr	do	do	do	80
	NE qr of SE qr	do	do	do	40
	NW qr of SE qr	do	do	do	40
	SW qr	do	do	do	160
	NE fr qr of NE qr	5	do	do	37.14
	NW fr qr of NE qr	do	do	do	36.86
	S half of NE qr	do	do	do	80
	W half of SE qr	do	do	do	80
	E half of SW qr	do	do	do	80
	W half of SE qr	8	do	do	80
	SW qr	do	do	do	160
80	E half of NE qr	11	73	42	80
	E half SE qr	do	do	do	80
	West half	12	do	do	320
	W half of NW qr	13	do	do	80
	W half of SW qr	do	do	do	80
	NE qr	14	do	do	160
	NE qr of SE qr	do	do	do	40
	W half of NW qr	17	do	do	80
	East half	18	do	do	320
	E half of SW qr	do	do	do	80
	W half of NE qr	19	do	do	80
	E half NW qr	do	do	do	80
	W half of SE qr	do	do	do	80
	West half	24	do	do	320
	NW qr of SE qr	do	do	do	40
	S half of SE qr	do	do	do	80
	N half of NE qr	25	do	do	80
	W half NE qr	30	do	do	80
	E half NW qr	do	do	do	80
	NW fr qr of NW qr	do	do	do	35.22
	SW fr qr of SW qr	do	do	do	35.66
	NW fr qr of SW qr	do	do	do	36.10
	SW fr qr of SW qr	do	do	do	36.54
	E half of SW qr	do	do	do	80
	W half of SE qr	do	do	do	80
	E half of NW qr	31	do	do	80
	W half of NE qr	do	do	do	80
	W half of SE qr	do	do	do	80
	NE qr	36	do	do	160
81	E half of SE qr	36	73	42	80
	SE qr of SE qr	25	do	do	40
	N fr half of NW qr	1	71	43	59.46
	S half of NW qr	do	do	do	80
	W half of SE qr	do	do	do	80
	All of fr	2	do	do	598.12
	All of fr	3	do	do	591.24
	All of fr	4	do	do	581.50
	North half	5	do	do	263.50
	SE qr	do	do	do	160
	N half of SW qr	do	do	do	80
	NE fr qr	6	do	do	131.20
	N fr half of NW qr	do	do	do	51.20

List of swamp lands, &c.—Continued.

	Parts of Section.	Sec.	Town.	R'nge.	Acres.
	SE qr of NW qr	6	71	43	40
	NW qr of SE qr	do	do	do	40
	E half of SE qr	do	do	do	80
	Fractions 1, 2, and 3	do	do	do	128.55
	Lots 1, 2, 3, and 4	7	do	do	224.41
	E half of NE qr	do	do	do	80
	E half of SE qr	do	do	do	80
	S half of NW qr	8	do	do	80
	SW qr	do	do	do	160
	East half	do	do	do	320
	All of	9	do	do	640
	NW qr	10	do	do	160
	W half of SW qr	do	do	do	80
	NE qr of SW qr	do	do	do	40
	NW qr of SE qr	do	do	do	40
82	NE qr of NE qr	10	71	43	40.00
	W half of NE qr	do	do	do	80.00
	N half of NW qr	11	do	do	80.00
	NE qr of NE qr	do	do	do	40.00
	NW qr of NE qr	do	do	do	40.00
	NW qr of NW qr	12	do	do	40.00
	NW qr of NW qr	15	do	do	40.00
	All of	17	do	do	640.00
	E half of NE qr	18	do	do	80.00
	E half of SE qr	do	do	do	80.00
	Lots 1, 2, 3, and 4	do	do	do	217.86
	Lots 1, 2, 3, and 4	19	do	do	199.22
	E half of NE qr	do	do	do	80.00
	E half of SE qr	do	do	do	80.00
	All of	20	do	do	640.00
	West half	21	do	do	320.00
	W half of NE qr	do	do	do	80.00
	SW qr of NW qr	27	do	do	40.00
	W half of SW qr	do	do	do	80.00
	SE qr of SW qr	do	do	do	40.00
	West half	28	do	do	320.00
	SE qr	do	do	do	160.00
	W half of NE qr	do	do	do	80.00
	SE qr of NE qr	do	do	do	40.00
	All of	29	do	do	640.00
	E half of NE qr	30	do	do	80.00
	Lots 1, 2, 3, and 4	do	do	do	162.24
	Lot No. 1	31	do	do	1.65
	NE qr of NW qr	32	do	do	40.00
83	NE qr	32	71	43	160.00
	E half of SE qr	do	do	do	80.00
	Lots 1, 2, 3, and 4	do	do	do	194.58
	All of	33	do	do	640.00
	West half	34	do	do	320.00
	SE qr	do	do	do	160.00
	SW qr of NE qr	do	do	do	40.00
	W half of SW qr	35	do	do	80.00
	SE qr of SW qr	do	do	do	40.00
	SW qr of SE qr	do	do	do	40.00
	N fr. half of N W qr	5	do	72	61.85
	S half of NW qr	do	do	do	80.00
	W half of SE qr	do	do	do	80.00
	SW qr	do	do	do	160.00

List of swamp lands, &c.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.
N fr half of NE qr	6	71	72	61. 86
N fr half of NW qr	do	do	do	64. 23
SW fr qr of NW qr	do	do	do	48. 62
SE qr of NW qr	do	do	do	40. 00
S half of NE qr	do	do	do	80. 00
SE qr	do	do	do	160. 00
E half of SW qr	do	do	do	80. 00
NW fr qr of SW qr	do	do	do	42. 33
SW fr qr of SW qr	do	do	do	42. 04
All of fr	7	do	do	645. 52
All of	8	do	do	640. 00
SW qr of NW qr	9	do	do	40. 00
W half of SW qr	do	do	do	80. 00
All of	17	do	do	640. 00
84 All of fr	18	do	do	642. 28
All of fr	19	do	do	640. 12
All of	20	do	do	640. 00
All of	21	do	do	640. 00
SW qr	22	do	do	160. 00
W half of SE qr	do	do	do	80. 00
W half of NW qr	do	do	do	80. 00
SE qr of NW qr	do	do	do	40. 00
W half of SW qr	23	do	do	80. 00
W half of SE qr	26	do	do	80. 00
SE qr of SE qr	do	do	do	40. 00
West half	do	do	do	320. 00
All of	27	do	do	640. 00
All of	28	do	do	640. 00
All of	29	do	do	640. 00
All of fr	30	do	do	638. 76
All of fr	31	do	do	639. 20
All of	32	do	do	640. 00
All of	33	do	do	640. 00
All of	34	do	do	640. 00
All of	35	do	do	640. 00
W half of SW qr	36	do	do	80. 00
SE qr of SW qr	do	do	do	40. 00
NE fr qr of NE qr	5	73	43	41. 83
NW fr qr of NE qr	do	do	do	41. 48
NE fr qr of NW qr	do	do	do	41. 13
NW fr qr of NW qr	do	do	do	40. 78
S half of NE qr	do	do	do	80. 00
85 S half of NW qr.	5	73	do	80. 00
SW qr	do	do	po	160. 00
W half of SE qr.	do	do	do	80. 03
All of fr	6	do	do	628. 02
All of fr	7	do	do	635. 20
West half	8	do	do	320. 80
NW qr.	17	do	do	160. 00
W half of SW qr	do	do	do	80. 00
NE qr	18	do	do	160. 00
E half of NW qr	do	do	do	80. 07
NW fr qr of NW qr	do	do	do	41. 09
SW fr qr of NW qr	do	do	do	41. 02
NW fr qr of SW qr	do	do	do	41. 40
NE qr of SW qr	do	do	do	40. 30
N half of SE qr	do	do	do	80. 30
All of fr	19	do	do	646. 00

List of swamp lands, &c.—Continued.

	Parts of section.	Sec.	Town.	R'ng.	Acres.
	SE qr of SE qr	18	73	43	40.00
	W half of NW qr	20	do	do	80.40
	W half of SW qr	do	do	do	80.00
	All of fr	30	do	do	648.08
	All of fr	31	do	do	649.00
	SW qr	32	do	do	160.00
	W half of NW qr	do	do	do	80.90
	E half of NE qr	17	72	40	80.00
86	W half of SE qr	22	73	do	80.00
	E half of NE qr	22	71	41	80,00
	W half of SE qr	27	do	do	80.00
	SW qr of NW qr	29	do	do	40.00
	NW qr of SW qr	do	do	do	40.00
	E half of SW qr	1	72	do	80.00
	E half of SW qr	14	do	do	80.00
	SW qr of SE qr	19	do	do	40.00
	SW qr	29	do	do	160.00
	NE qr	30	do	do	160.00
	E half of SE qr	do	do	do	80.00
	W half of NW qr	32	do	do	80.00
	SE qr of NW qr	do	do	do	40.00
	NE qr of SW qr	do	do	do	40.00
	NE fr qr of NW qr	6	73	do	38.60
	NW fr qr of NW qr	do	do	do	32.73
	SW fr qr of SW qr	19	do	do	35.17
	NW fr qr of NW qr	30	do	do	35.53
	NW fr qr of SW qr	31	do	do	38.45
	SW fr qr of SW qr	do	do	do	38.95
	N fr half of NE qr	5	72	43	62.03
	SW qr of NE qr	do	do	do	40.00
	SE qr of SE qr	do	do	do	40.00
	SE qr of SW qr	23	do	do	40.00
	E half of NW qr	do	do	do	80.00
87	NW qr of NE qr	23	72	43	40
	W half of SE qr	12	do	do	80
	W half of SW qr	15	do	do	80
	E half of SE qr	do	do	do	80
	SW qr of NE qr	do	do	do	40
	NE qr of SW qr	36	do	do	40
	NE qr of SE qr	5	73	43	40
	E half of SW qr	17	do	do	80
	E half of NW qr	20	do	do	80
	E half of SW qr	do	do	do	80
	W half of NW qr	29	do	do	80
	SE qr of NW qr	32	do	do	40
	NE qr of NE qr	1	73	44	40.37
	NW fr qr of NE qr	do	do	do	40.23
	NE fr qr of NW qr	do	do	do	40.08
	NW qr of NW qr	do	do	do	39.94
	S half of NE qr	1	do	do	80
	S half of NW qr	do	do	do	80
	South half	do	do	do	320
	SE fr qr of NE qr	2	do	do	39.86
	NW fr qr of NE qr	do	do	do	39.86
	NW fr qr of NE qr	do	do	do	39.86
	NW fr qr of NE qr	do	do	do	39.86
	S half of NE qr	do	do	do	80
	E half of SE qr	do	do	do	80
	Lots 1, 2, 3, and 4	do	do	do	204.12
	Lots 1 and 2	11	do	do	118.61

List of swamp lands, &c.—Continued.

Parts of section.	Sec.	Tp.	R.	Acres.
88 East half	12	73	44	320
NW qr	do	do	do	160
N half of SW qr	do	do	do	80
SE qr of SW qr	do	do	do	40
Lot No. 1	do	do	do	31. 10
NE qr	13	do	do	160
E half of SE qr	do	do	do	80
Lots 1, 2, 3, and 4	do	do	do	190. 37
East half	24	do	do	320
E half of SW qr	do	do	do	80
SW qr of SW qr	do	do	do	40
Lots 1, 2, and 3	do	do	do	130. 92
Lot No. 1	27	do	do	12. 60
SE qr	1	72	do	160
S half of NE qr	do	do	do	80
N fr half of NE qr	do	do	do	62. 08
Lots 1, 2, 3, and 4	do	do	do	240. 87
Lot No. 1	2	do	do	4. 78
Lots No. 1 and 2	11	do	do	44. 88
East half	12	do	do	320
SW qr	do	do	do	160
E half of NW qr	do	do	do	80
SW qr of NW qr	do	do	do	40
Lot No. 1	do	do	do	38. 60
All of	13	do	do	640
Lots 1, 2, and 3	14	do	do	94. 21
SE qr of NE qr	23	do	do	40
SE qr	do	do	do	160
89 Lots No. 1, 2, 3, and 4	23	do	do	213. 37
All of	24	do	do	640
All of	25	do	do	640
E half of NE qr	26	do	do	80
NE qr of NE qr	do	do	do	40
Lots No 1, 2, 3, and 4	do	do	do	196. 50
NE qr	36	do	do	160
E half of SE qr	do	do	do	80
NE qr of NW qr	do	do	do	40
Lots 1, 2, 3, and 4	do	do	do	146. 57
Lot No. 1	35	do	do	40
Lots 1, 2, 3, and 4	23	73	do	124. 85
East half	26	do	do	320
SW qr	do	do	do	160
SE qr of NW qr	do	do	do	40
Lot No. 1 and 2	do	do	do	78
Lot No. 1	27	do	do	12. 60
E half of SE qr	25	do	do	80
SE qr of SW qr	do	do	do	40
W half of SW qr	do	do	do	80
Lot No. 1	34	do	do	3. 70
NE qr	35	do	do	160
NE qr of SE qr	do	do	do	40
NE qr of NW qr	do	do	do	40
Lots 1, 2, 3, and 4	do	do	do	183. 44
All of	36	do	do	640
	○	○	○	
	○	○	○	
	○	○	○	

90 SURVEYOR GENERAL'S OFFICE,
Dubuque, Sept. 20th, 1854.

I, Warner Lewis, surveyor general of the State of Iowa, do hereby certify that the foregoing list marked is a correct transcript of the original lists of selections made by the county surveyors or State locating agents; that the same has been carefully compared with the field notes, plats, and other evidences on file in this office, and by the affidavit of said county surveyors or State locating agents. It appears that the greater part of each smallest legal subdivision of the lands embraced in said list is swampy or subject to such overflow as to render the same unfit for cultivation, and therefore of the character contemplated by the act of 28th Sept. 1850.

(Signed) WARNER LEWIS, *Surveyor General.*

[End of No. 1.]

The foregoing being true extracts from the report dated Sep. 20, 1854, of the surveyor general of Iowa and Wisconsin of swamp land selections under color of the act of Congress approved September 28, 1850. And I further hereby certify that of
91 the tracts above-described being in odd numbered sections, the following being a true extract from the original list on the files of this office, having been brought to the test of the official field notes and other data, as required by the decision of the Secretary of the Interior of the 8th Feb., 1860, (certified copy A herewith,) were found not to be swamp, and accordingly were rejected by the Commissioner of the General Land Office, under date of Oct. 25, 1861, to wit:

Swamp land rejections.

Parts of section.	Sec	Tp.	R.	Acres.
				o o
N half of NW qr, SE qr of NW qr, SW qr of SW qr, W half of NE qr, and NE qr, NE qr	5	72	40	226. 96
N half of sec. SW qr, and E half of SE qr	7	do	do	557. 88
E half of NE qr and W half of NW qr	17	do	do	160
N half of section	19	do	do	321. 93
E half of NW qr and SW qr	1	73	40	235. 23
W half of NW qr and W half SW qr	3	do	do	155. 85
Whole of section	9	do	do	640
S half of SE qr and NE qr of SE qr	11	do	do	120
W half of sec, SE qr and SE qr of NE qr	15	do	do	560
E half of SW qr, W half of SE qr and SE qr of SE qr	17	do	do	200
Whole of section	21	do	do	640
E half of sec. NW qr and E half of SW qr	29	do	do	560
NW qr of SW qr	29	do	do	40
W half of sec., SE qr, W half of NE ¼ and NE ¼ of NE ¼	31	do	do	580. 44
	o	o	o	
Whole of section	9	71	41	640
92 NW qr W half of SW qr and NW qr of NE qr	11	do	do	280
Whole of sec.	15	do	do	640
NE qr of NE qr	17	do	do	40
E half of sec. SW qr and NE qr of NW qr	21	do	do	520
W half of sec, W half of NE qr and W half of SE qr	27	do	do	480
SE qr E half of NE qr and E half of NW qr	29	do	do	320

Swamp land rejections.—Continued.

Parts of section.	Sec.	Tp.	R.	Acres.
E half of SW qr and NW qr of SW qr	29	71	41	120
SE qr of SE qr	31	do	do	40
E half of sec. SW qr and E half of NW qr	33	do	do	560
NE qr of NW qr	33	do	do	40
SE qr and E half of SW qr	1	72	do	240
S half of sec E half of NE qr and NW qr of NE qr	13	do	do	440
S half of NW qr	19	do	do	80. 87
E half of sec, SW qr, and E half of SW qr	23	do	do	560
W half of sec and NE qr	25	do	do	480
NE qr and E half of SE qr	27	do	do	240
SW qr	29	do	do	160
E half sec, SW qr and NW qr of NW qr	35	do	do	520
SW qr of SW qr	19	73	do	35. 17
	o	o	o	
	o	o	o	
NE qr N half of SE qr and SW qr	1	73	42	390. 07
NE qr and E half of SW qr	5	do	do	233. 99
E half of NE qr and E half of SE qr	11	do	do	160
NW qr of NW qr	13	do	do	40
E half of NW qr and W half of NE qr	19	do	do	160
93 W half of SE qr and SE qr of SW qr	19	do	do	120
N half of NE qr	25	do	do	80
NE qr of NW qr, SW qr of NE qr and NW of SE qr	31	do	do	120
	o	o	o	
	o	o	o	
NW qr and W half of SE qr	1	71	43	219. 46
N half sec, SE qr, E half of SW qr, NW qr of SW qr	3	do	do	551
NW qr, N half of SW qr, S half of NE qr, SE qr	5	do	do	451. 47
W half of sec, W half of NE qr and E half of SE qr	9	do	do	480
N half of NE qr and N half of NW qr	11	do	do	160
S half of sec, and W half of NW qr	17	do	do	400
NE qr of NE qr	19	do	do	40
NW qr, W half of SW qr and NW qr of NE qr	21	do	do	280
E half of section	29	do	do	320
NW qr of NE qr, S half of NE and SE qr of NW qr	33	do	do	160
SE qr and E half of SW qr	33	do	do	240
W half of SW qr, SE qr of SW qr, SW of SE	35	do	do	160
W half of sec, W half of NE qr and NE qr of NE qr	5	72	do	403. 88
SW qr of of NW qr	7	do	do	41. 51
SW qr	17	do	do	160
W half of section	19	do	do	320. 15
Whole of section	21	do	do	640
SW qr of SW qr	23	do	do	40
Whole of section	27	do	do	640
E half of sec, SW qr, and W half of NW qr	29	do	do	560
E half of section	31	do	do	320
W half of sec, W half of NE qr and W half of SE qr	33	do	do	480
E half of sec and S half of NW qr	35	do	do	400
NE qr, N half of NW qr, NW qr of SE qr S E qr of SW qr	5	73	do	325. 22
94 W half of sec. SE qr, W half of NE qr, and SE qr of NE qr	7	73	43	595. 82
E half of NW qr, and E half of SW qr	17	do	do	160. 00
NW qr of NW of , S half of NE qr, and E half of SE qr	19	do	do	201. 30
W half of NE qr, and W half of SE qr	31	do	do	160. 00
	o	o	o	
	o	o	o	
Whole of section	1	72	44	542. 95

Swamp land rejections.—Continued.

Parts of section.	Sec.	Tp.	R'ng.	Acres.
Lot No 1	11	72	44	15.68
W half of NE qr, and NW qr of SE qr	13	do	do	120.00
NE qr of SW qr, and NE qr of NW qr	13	do	do	80.00
E half of NW qr, and W half of NE qr	25	do	do	160.00
W half of SE qr, and NE qr of SW qr	25	do	do	120.00
NE qr of NE qr	1	73	44	40.37
S half of SE qr, and SE qr of SW qr	1	do	do	120.00
E half of NE qr, NW qr of NE qr, and NE qr of SE qr,	13	do	do	160.00
Lots Nos. 2 and 3	23	do	do	64.53
Whole of fr section	27	do	do	12.60
NE qr of NW qr, and lots 1, 2, and 3	35	do	do	191.27
	○	○	○	

And I further hereby certify that these said tracts were subsequently certified to the State of Iowa as railroad lands, according to a verified transcript, certified under date of 25th March, 1862, and sent to the governor of that State, which said certified transcript has vested the title to said lands in virtue of the act of 3d Aug., 1854, U. S. statutes, vol. 10, page 346, in the said State, under the grant of 15th May, 1856.

95 And I further hereby certify that of the tracts described in the report of swamp land selections made by the surveyor general on the said 20th of September, 1854, the following, in even numbered sections, were certified to the State of Iowa, under date of 20th June, 1859, as enuring to the State as swamp lands, the approval thereof as swamp having been made by the Secretary of the Interior on the 25th Feb., 1859, to wit:

Parts of section.	Sec.	Tp.	R'ng.	Acres.
N fr half of NE qr	6	72	40	54.44
SW qr of NE qr	6	do	do	40.00
N fr half of NW qr	6	do	do	51.30
SE qr of NW qr	6	do	do	40.00
SW fr half of NW qr	6	do	do	36.41
SW fr half of SW qr	6	do	do	37.64
SE qr of SW qr	6	do	do	40.00
NE qr of SW qr	6	do	do	40.00
NW fr qr of SW qr	6	do	do	37.04
W half of SE qr	6	do	do	80.00
SE qr of SE qr	6	do	do	40.00
W half	8	do	do	320.00
NE qr of NE qr	18	do	do	40.00
SE qr of NE qr	18	do	do	40.00
NW fr qr	18	do	do	162.12
E half of SW qr	18	do	do	80.00
W half of NE qr	18	do	do	80.00
96 SE qr	18	72	40	160.
NW fr qr SW qr	18	do	do	41.44
SW fr qr of SW qr	18	do	do	39.20
NE fr qr of N Eqr	4	73	40	35.94
NW fr qr of NE qr	4	do	do	36.03

Swamp lands, *county, Iowa.*—Continued.

Parts of section.	Sec.	T'p.	R'ng.	Acres.
S half of NE qr	4	73	40	80
SE qr	4	do	do	160
West half	10	do	do	320
NW qr	12	do	do	160
W half of SW qr	12	do	do	80
NE qr of SW qr	12	do	do	40
NE qr	14	do	do	160
NW qr of SE qr	14	do	do	40
S half of NW qr	14	do	do	80
SW qr	14	do	do	160
NE qr	20	do	do	160
NE qr of NW qr	20	do	do	40
SE qr	20	do	do	160
W half of	22	do	do	320
NE qr	22	do	do	160
W half of SE qr	22	do	do	80
N half	28	do	do	320
W half of SE qr	28	do	do	80
N half of SW qr	28	do	do	80
W half of SE qr	30	do	do	80
SE qr of SW qr	30	do	do	40
SW fr qr of SW qr	30	do	do	34.58
N fr half of NE qr	2	71	41	57.21
97 S half of NE qr	2	do	do	80
S half of NW qr	2	do	do	80
W half of NW qr	2	do	do	80
NE qr of SE qr	2	do	do	40
SW qr	2	do	do	160
N fr half of NE qr	6	do	do	58.30
E half of SE qr	6	do	do	80
SE qr of SE qr	6	do	do	40
E half of NW qr	8	do	do	80
E half of SW qr	8	do	do	80
NE qr	8	do	do	160
SE qr	8	do	do	160
All of	10	do	do	640
W half of NW qr	14	do	do	80
W half	22	do	do	320
W half of NE half	22	do	do	80
W half of SE qr	22	do	do	80
E half of NE qr	22	do	do	80
All of	28	do	do	640
E half of NW qr	32	do	do	80
NE qr	32	do	do	160
SE qr	32	do	do	160
SW qr	32	do	do	160
W half	34	do	do	320
E half of NE qr	12	72	do	80
E half of SE qr	12	do	do	80
S half of SE qr	14	do	do	80
E half of SW qr	14	do	do	80
S half of SE qr	22	do	do	80
98 All of	24	do	do	640
NE qr	26	do	do	160
NW qr	26	do	do	160
W half of SW qr	26	do	do	80
SE qr	26	do	do	160
NE qr of NE qr	30	do	do	40
E half of SE qr	30	do	do	80

Swamp lands, *county, Iowa.*—Continued.

Parts of section.	Sec.	T'p.	R'ng.	Acres.
NE qr of SW qr	32	72	41	40
NE qr	34	do	do	160
E half of NW qr	34	do	do	80
NW qr of NW qr	34	do	do	40
NW qr	36	do	do	160
NE fr qr of NW qr	6	73	do	38.60
NW fr qr of NW qr	6	do	do	32.73
NW fr qr of NW qr	30	do	do	35.53
W half SE qr	8	do	42	80
NW qr of SW qr	8	do	do	40
E half of SW qr	8	do	do	80
W half of NW qr	12	do	do	80
W half of SW qr	12	do	do	80
SE qr of SW qr	12	do	do	40
NE qr	14	do	do	160
NE qr of SE qr	14	do	do	40
NE qr of NE qr	18	do	do	40
W half of NE qr	18	do	do	80
W half of SE qr	18	do	do	80
SE qr of SE qr	18	do	do	40
NE qr of SW qr	18	do	do	40
E half of NW qr	24	do	do	80
99 SW qr	24	do	do	160
SW qr of NW qr	24	do	do	40
NW qr of SE qr	24	do	do	40
S half of SE qr	24	do	do	80
W half of NE qr	30	do	do	80
E half of NW qr	30	do	do	80
NW fr half of NW qr	30	do	do	35.22
SW fr qr of NW qr	30	do	do	35.66
E half of SW qr	30	do	do	80
W half of SE qr	30	do	do	80
All of fr'l	2	71	43	595.12
All of fr'l	4	do	do	581.50
W half of SW qr	8	do	do	80
E half of S E qr	8	do	do	80
NW qr	10	do	do	160
W half of SW qr	10	do	do	80
W half of NE qr	10	do	do	80
N W qr of NW qr	12	do	do	40
E half of NE qr	18	do	do	80
E half	20	do	do	320
NW qr	20	do	do	160
N half of SW qr	20	do	do	80
SE qr of SW qr	20	do	do	40
W half of NW qr	28	do	do	80
NW qr of SW qr	28	do	do	40
NW qr of SE qr	28	do	do	40
E half of SE qr	28	do	do	80
W half of NE qr	28	do	do	80
SE qr of NE qr	28	do	do	40
100 E half of SE half	32	71	43	80
W half of NW qr	34	do	do	80
SW qr	34	do	do	160
SE qr of NW qr	34	do	do	40
SE qr	34	do	do	160
SW qr of NE qr	34	do	do	40
SW qr of NW qr	6	72	43	42.62
SW qr of SE qr	6	do	do	40

Swamp lands, *county, Iowa.*—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.
SE qr of SW qr	6	72	43	40
NW qr of SW qr	6	do	do	42.33
SW qr of SW qr	6	do	do	42.04
SE qr	18	do	do	160
All of	20	do	do	640
SW qr	22	do	do	160
NW qr of SE qr	22	do	do	40
W half of NW qr	22	do	do	80
SE qr of NW qr	22	do	do	40
W half of SE qr	26	do	do	80
SE qr of SE qr	26	do	do	40
NW qr of NW qr	26	do	do	40
S half of NW qr	26	do	do	80
N half of SW qr	26	do	do	80
All of	28	do	do	640
E half of NW qr	30	do	do	80
E half of SW qr	30	do	do	80
E half of SE qr	30	do	do	80
E half of NE qr.	32	do	do	80
101 W half.	32	do	do	320
NW qr of SE qr.	32	do	do	40
E half of SE qr	32	72	43	80
All of	34	do	do	640
SW qr of SW qr	36	do	do	40
SE qr of SW qr	36	do	do	40
N half of SW qr	6	73	43	
E half of NW qr	6	do	do	
SW qr of SW qr	6	do	do	
SW qr of SE qr	6	do	do	
E half of NW qr	8	do	do	80
SW qr of NW qr	8	do	do	40
W half of SW qr	8	do	do	80
NE qr of NE qr	18	do	do	40
W half of NE qr	18	do	do	80
E half of NW qr	18	do	do	80
NW fr qr of NW qr	18	do	do	41.47
SW fr qr of NW qr	18	do	do	41.39
NW fr qr of SW qr	18	do	do	41.32
NE qr of SW qr	18	do	do	40
SW qr of NW qr	20	do	do	40
W half of SW qr	20	do	do	80
E half of NW qr	20	do	do	80
SE qr of SW qr	20	do	do	40
NE qr.	30	do	do	
SE qr of NW qr	30	do	do	
S half of SW qr	30	do	do	
NE qr of SE qr	30	do	do	
NW qr of SE qr	30	do	do	
SE qr of NW qr	32	do	do	40
Lot No. 1	2	72	44	4 78
102 E half	12	72	44	320
E half of SW qr	12	do	do	80
E half of NW qr	12	do	do	80
NE qr of NE qr	24	do	do	40
SE qr of NE qr	26	do	do	40
E half of SE qr	36	do	do	80
NE qr of NW qr	36	do	do	40
Lot 4	36	do	do	
SE qr of NE qr	26	73	44	40

Swamp Lands, *county, Iowa.*—Continued.

Parts of section	Sec.	Town.	R'ng.	Acres.
NE qr of SE qr	26	73	44	40
W half of SW qr	26	do	do	80
SE qr of SW qr	26	do	do	40
Lots 1 & 2	26	do	do	78
Lot	34	do	do	3.70
E half of NE qr	36	do	do	80
SW qr of NE qr	36	do	do	40
W half of SE qr	36	do	do	80
E half of NE qr	12	do	do	80
NW qr of NE qr	12	do	do	40
SW qr of SE qr	12	do	do	40
E half of SE qr	12	do	do	80

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[L. S.] J. M. EDMUNDS.

103 GENERAL LAND OFFICE,
Washington, December 20, 1864.

I, J. M. Edmonds, Commissioner of the General Land Office, do hereby further certify that the original lists of swamp selections, from which the foregoing extract, found on pages 1 to 9 inclusive, and marked in red ink "No. 1" was taken, was filed in this office on the 27th day of September, 1854, as shown by the records of this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.] J. M. EDMONDS,
Commissioner.

A

104 COMMISSIONER OF THE GENERAL LAND OFFICE,
DEPARTMENT OF THE INTERIOR,
Washington, Feb'y 8, 1860.

SIR: In reply to your communication of the 4th, and report of the 21st ultimo, relative to swamp selections in Louisiana, which conflict with railroad grants, I have to state that it appears to me that my decision of the 23d July last furnishes a rule for the action of your office in cases of conflict wherein the swamp selections had been made, and reported to your office prior to the 3d March, 1857.

It is true that in my letter of the 12th August, 1858, I approved the suspension of action in cases of conflict in Louisiana, where lands that had been embraced in swamp list that were on file on the 3d March, 1857, were found also to lie within railroad grants which had vested prior to that date, until the General Land Office could deter-

mine whether such lands ought to be certified to the State under the railroad grant of 3d June, 1856, or the swamp grant. This may have been regarded as looking to an investigation into the question of the swampy or dry condition of the land on the 28th Sept.
105 1850, or the 2d March 1849; but as case after case arose, and delay in carrying out the conflicting grants appeared to threaten greater evils than those likely to arise from mistakes, in my letter of the 23d July last I informed you, in substance, in reference to swamp selections on your files on the 3d March, 1857, that if a title, under the railroad grant had not vested prior to that date, my opinion was that Congress, by the act of that date, had decided that the title should pass under the swamp grant. On the other hand, if the title under the railroad grant had vested prior to that date, the land office might proceed to decide, as to the swampy character of the land, upon the field notes of the surveys, and the papers on file, and of record on the 3d March; and if the claim of the State under the older grant was satisfactorily established, to affirm the title under that grant; but if the swamp claim was not satisfactorily sustained, to certify the title under the railroad grant.

The conflict which existed on 3d March, 1857, we were compelled to settle according to the law of that date, but that law is retrospective only in its operation. Since that date we are left to
106 administer the swamp and railroad grants solely under the laws making them; and as the swamp selections are made under the direction and supervision of the department, and approved by the Secretary of the Interior, it is clearly within our authority to adopt such a policy or course of action in the administration of the grants as will give effect to the laws of the United States, prevent embarrassments in conducting the business of the General Land Office, and most effectually do justice to the States interested.

Confining the following remarks to cases wherein the claim under the swamp grants is based on selections made and reported to the General Land Office on or subsequent to the 3d March, 1857, I would remark—First. In cases in which the swamp seclections have been made and reported, prior to the definite location of a railroad route, and the lands fall within the six mile limit of the line of road, your office should proceed in the usual and regular manner, and determine from the records and files of the General Land Office whether the tract did pass to the States under the swamp grant. Should
107 you decide in the affirmative, the title to the selected tracts should be completed under the swamp grants; but if you are not warranted in making such affirmative decision, the swamp claim may be rejected and the title certified to the State under the later, but more specific grant. Second. In that class of cases in which a title to lands within the six mile limits of a railroad line has vested in the State under a railroad grant, the Surveyor General should not thereafter admit or report selections of the same tracts as swamp lands. The swamp grant may be indeed the earlier, but the railroad grant is more specific; the title under it has become fully vested, and it should be fully recognized, even if the land was of such description

as to fall under the swamp grants of 1849 or 1850. The effect of the later grant is at most only to change the use for which the grantee receives the land. I will not call in question the power of Congress to make that change. When the State accepts the later grant, and proceeds to complete her title under it, she has assented to the change, and both the grantor and grantee appear to be concluded by this voluntary yet concurrent, action.

108 Third. When lands lie between the six and fifteen miles limits of a located railroad, but have never been listed and approved to the State under the provisions of the railroad grant so as to vest that title, and the same lands fall within the description granted in 1849 and 1850, for drainage and leon purposes, the State appears to have the right to claim title under either grant; and if she is so claiming under both, I think we may examine the claim, under the older grant, and if that be satisfactory, approve and patent the lands; but if not satisfactory reject the same, and proceed under the later grant. After indemnity lists have been approved and transmitted to the State authorities, the lands therein are no longer liable to selection or report as swamp lands, and any selection that may have been made thereof, may be rejected. When the department has fully executed one grant, its officers should cease all action under another grant of the same land to the same grantee.

And where lands between the six and fifteen miles limits of a railroad which has been located are, by executive order, withheld
109 from pre-emption and ordinary private entry, in order to facilitate the adjustment of a grant to a State for railroad purposes, I think that the State authorities, from respect to the action of the State, as well as to that of the United States, ought to waive any rights which she may have to make selections of the withheld tracts under the swamp grants.

Should any State persist in that policy, and bring thus upon your office the evils which were sought to be avoided by the withdrawal of the lands, it may be a question whether the withdrawal of such lands within her limits should not be removed and the lands left in market whilst the adjustment of the railroad grants is progressing.

Very respectfully, your ob't serv't,

J. THOMPSON, *Secretary.*

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

110 To the Burlington and Missouri River Railroad Company:

You will take notice, that on the 14th day of December, 1864, I will proceed to take the deposition of J. M. Dews, N. Lathrop, D. H. Solomon, Joel Solomon, Frank Street, J. W. Coolidge, A. R. Wright, J. V. Hindman, ——— King, E. R. S. Woodrow, and E. C. Bosbyslull, and H. C. Watkins, and others, before H. A. Copeland, clerk of the District Court for Mills county, Iowa, at his office, in the city of Glenwood, in the court-house, to be read in evidence on the trial of a certain cause, wherein Mills county is plaintiff and you are defendant, now pending in said District Court, on the part of said plaintiff. Said depositions will be taken between the hours

of 9 o'clock. a. m. and six p. m. on the day above-mentioned, and the taking of the same will be continued from day to day until completed, if not completed on the said date first mentioned.

MILLS COUNTY,
By WM. HALE, *her Att'y.*

Nov. 8th, 1864.

STATE OF IOWA, *Des Moines County:*

This notice came into my hands for service on the 17th day of November, and on the 18th day of November, 1864, I served
111 this notice on D. Rorer, esq'r, the att'y for the Burlington and Missouri R. R. Road Co., and on Perkins, agent of the same co., by reading this notice to them, and delivering D. Rorer a true copy thereof, in the city of Burlington, Des Moines co., Iowa.

M. HEISEY, *Sheriff Des Moines Co., Iowa.*

Service	75
Copy	25
	$1 00

Paid by pl'ff att'y.

Depositions of witnesses taken before H. A. Copeland, clerk of the District Court in and for said county of Mills and State of Iowa, pursuant to the attached notice, at the office of the clerk of the District Court of said county, on the 14th, 15th, and 16th days December, A. D. 1864, to be read in evidence in a suit pending in said court, wherein Mills county, Iowa, is plaintiff, and the Burlington and Missouri River Railroad Co. is defendant, on the part of the plaintiff.

Deposition of Nelson Lathrop.

Ques. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action?

112 Ans. My name is Nelson Lathrop; age, 55 years. I reside in Mills county, Iowa. I am acquainted in Mills county, and know something of the Burlington and Missouri River Railroad Company.

Ques. 2nd. Were you or were you not ever in the employ of the Burlington and Missouri River Railroad Company, the defendant herein? and if so, state when, and in what capacity did you act.

Ans. I was in the employ of the company. I acted in the capacity of a director. I was elected director in May or June, 1856, and I acted in that capacity for one year.

Ques. 3rd. State what you know with regard to the adoption of the line or lines of said road or surveys thereof, by the board of directors of said company, when the same was adopted, and all the particulars in relation to it?

Ans. The first preliminary survey was first made in the early part of the summer of 1856, upon which the board proceeded to make a location, and made out their plats of land and forwarded to the different land offices, and received letters from those land offices,
113 stating that the land could not be located until they had a permanent survey, and accordingly rejected the plats first forwarded. The company then went to work and made out a permanent survey, upon which a location was made by the board of directors in the latter part of March or first of April. I am not shure which, I think in April, A. D. 1857. I was a member of the board of directors at the time these transactions were had.

Ques. 4th. Was or was you not one of a committee on the part of the board of directors to go to Iowa City, Iowa, at the time the grant was made by the State of Iowa to certain railroad companies, which was passed by the legislature of said State July 14th, 1856? and if so, state for what purpose you were so appointed by said board, and what you did in your official capacity in behalf of said railroad company, the defendant herein, and particularly what was done in reference to lands which had been selected as swamps and overflowed land, and give all the particulars in reference thereto.
114 Ans. I was one of such committee on behalf of said company, the defendant herein, and I went to Iowa City, and was there at the time said act was passed. The committee appointed by said board went for the purpose of receiving and accepting the grant from the State on behalf of the Burlington and Missouri River Railroad Company. We received the grant of lands, and there was no mention made of swamp lands, and we had no expectation whatever of getting any swamp lands by the said grant. During the time the railroad was under the control of Iowa directors, there was no expectation whatever, or intention on the part of said railroad company, the defendant herein, to get or claim any lands which had been selected as swamp and overflowed land, nor was there ever any such lands claimed by the defendant herein until after the board passed into the control of eastern men, not residents of the State of Iowa.

Ques. 5th. State, if you know, about what time the control of said road passed into the hands of said eastern men, and how they obtained said control.
115 Ans. I think it was in the month of May or June, 1857; they got control of the road by subscribing $500,000 worth of stock, which gave them a majority of the stockholders, and on that ground they elected the directors from eastern States, except one or two from Iowa. I am not positive of the exact amount they subscribed, but I am certain it was sufficient to give them a majority of the stock of said company.

Ques. 6th. Did you, or did you not, by yourself, or in company with others, receive an appointment by the board of directors of the defendant herein to go out west along the line of said road in Iowa for any purpose? and if so, state at what time you received said appointment, what you was authorized to do for and on behalf of said board, and what you did do; please give all particulars.

Ans. Judge Newman and myself were appointed in August or September, 1856, by the board of directors of said company for the purpose of passing along the line of the road west, to solicit donations of money and real estate for said company, and also to solicit of the several counties to donate the lands, which had been selected as swamp and overflowed lands; we passed along the line of
116 the road as far as the Missouri river west, and did solicit and receive donations of money, lands, and town lots for said company.

Ques. 7. Did or did you not, for and in behalf of said company in the capacity before refered to, solicit of the county judge of Mills County, the plaintiff herein, a donation of all the lands lying in said county, which had been selected as swamp and overflowed lands.

Ans. I did.

Ques. 8th. State, if you know, to what point, or the number of miles, said road was completed on the 15th day of May, 1856, and at what time it was completed to Mt. Pleasant and Ottumwa, Iowa?

Ans. I think there was about fifteen miles of the road completed the 15th of May, 1856; and I think it was completed to Mt. Pleasant in May, 1857, and to Ottumwa in the latter part of the year 1858, or the forepart of the year 1859.

Ques. 9. Where did you reside previous to moving to Mills
117 county, Iowa, and at what time did you move to Mills county, Iowa, and how long did you reside there?

Ans. I resided in Mt. Pleasant, Iowa. I removed from that place to Mills county, [county,] Iowa, in 1862. I had resided in Mt. Pleasant for twenty-two years previous to my moving to Mills county.

N. LATHROP.

The time having expired, the further taking of depositions, in pursuance to foregoing and attached notice, is adjourned till to-morrow morning at 8 o'clock a. m.

H. A. COPELAND, *Clerk.*

FRIDAY MORNING, *December 15th*, 1864.

Pursuant to adjournment, I proceed to take the deposition of James M. Dews, as follows:

H. A. COPELAND, *Clerk.*

Deposition of James M. Dews.

Ques. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action?

118 Ans. My name is James M. Dews; age, 45 years; I reside in Glenwood, Mills county, Iowa. I am acquainted with Mills county, and know that there is such a company as the Burlington & Missouri River Railroad Company.

Ques. 2nd. Did you, or did you not, ever buy of Mills county any of the lands in controversy in this action? and if so, have you ever paid for the same? and if so, how much did you pay, and what is

the description of the lands you purchased, when did you purchase the same, and have you ever received any title thereto?

Ans. I, on the 21st day of July, 1857, bought of Mills county, Iowa, the N. E. ¼ of the N. W. ¼, and the N. W. ¼ af the N. E. ¼ of section No. 21, tp. 71, range 43, for which I paid one hundred dollars at that date; and also on the 22nd day of September, 1857, I bought of said county the E. ½ of the N. W. ¼, and the S. W. ¼ of the N. W. ¼ of section 35, tp. 72, r. 43, for which I paid one dollar and 25 cents per acre; and I also have an interest in the E. ½ of S. W. ¼ of sec. 29, tp. 72, r. 43; and also the west ½ of the S. E. ¼ of section 29, same town and range. I
119 have the receipts for the money paid for those described in section 21, and also for those described in section 35 above, given to me by the clerk of the District Court; and also have in my possession the receipts for that described as lying in section 29, given to George S. Eagres, bearing date 3rd of April, 1857, since which time I have received a conveyance of those paid for by Eagres of the interest he acquired by such payment to those lands. I have never received a conveyance from the county or State for any of the lands above described. The sum of two hundred dollars is the amount paid by Eagres for the two tracts described as lying in sec. 29, as above described. I and Eagres have paid the money for the lands described above, and have no other evidence of title for the same other than the receipt for the money.

J. M. DEWS.

Adjourned till to-morrow morning at 8 o'clock a. m.

H. A. COPELAND, *Clerk.*

120 Pursuant to adjournment, I proceed to take the deposition of Joel Solomon, on the 16th day of December, A. D. 1864.

H. A. COPELAND, *Clerk.*

Deposition of Joel Solomon.

Ques. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action?

Ans. My name is Joel Solomon, aged 54 years; I reside in Glenwood, Mills county, Iowa. I am personally acquainted with Mills county, and know the Burlington and Missouri River Railroad Company from reputation.

The further taking of this deposition is adjourned till to-morrow morning at ten o'clock a. m.

H. A. COPELAND, *Clerk.*

FRIDAY, *December 17th*, 1864.

The parties failing to appear, the taking of depositions, in accordance with the notice hereto attached, is closed by expiration of time.

H. A. COPELAND, *Clerk.*

121 STATE OF IOWA, *Mills County, ss:*

I, H. A. Copeland, clerk of the District Court in and for said county, do hereby certify that the foregoing depositions of Nelson Lathrop and James M. Dews, were taken before me [me] in accordance with the foregoing and attached notice, at my office, in Glenwood, Mills county, Iowa, on the 14th and 15th days of December, A. D. 1864; that the same were reduced to writing by me, and by me carefully read over to the said deponents, respectively, after which they were sworn to and subscribed by the said deponents, respectively, before me, on the 14th and 15th days of December, A. D. 1864.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this 17th day of December, A. D. 1864.

[SEAL.] H. A. COPELAND, *Clerk.*

Fee bill:

Clerk's fees	$4 00
N. Lathrop, witness	1 40
J. M. Dews, witness	1 00
	$6 40

122 STATE OF IOWA, *Mills County, ss:*

Be it known, that among the records of the office of the county judge of Mills county, Iowa, the following appears in the minute book made by the county judge of Mills county in the swamp land record, to wit:

"Ordered that O. N. Tyson be, and he is hereby, appointed surveyor and agent to select the swamp lands donated by the State of Iowa to the county of Mills for the purpose reclaiming them. April, 1853."

I, H. A. Copeland, clerk of the district court of Mills county, Iowa, and ex-officio clerk of the board of supervisors, do hereby certify that the above and foregoing marked in quotation marks is a true, perfect, and complete copy of what appeared on the swamp land record of Mills county for April 1853, made by said county judge.

In witness whereof, I have hereto set my hand and official seal this [this] April 18th, 1863.

[L. S.] H. A. COPELAND, *Clerk.*

123 *Notice of depositions to the Burlington and Missouri River Railroad Company.*

MILLS CO., IOWA,
vs.
THE B. & M. R. R. R. CO.

You will take notice that on the 14th day of April, A. D. 1865, between the hours of 9 o'clock a. m. and 6 o'clock p. m., before H.

A. Copeland, clerk of the District Court of Mills county, Iowa, at his office in Glenwood, Iowa, I will proceed to take the depositions of Frank Street, J. W. Coolidge, H. W. Summers, S. W. Tubbs, H. C. Watkins, Wm. Street, E. C. Bosbyshell, J. M. Davis, and Wm. Kempton, and others, to be used and read in evidence on the trial of a certain cause pending in said District Court for Mills Co., Iowa, wherein Mills county is plaintiff and you are the defendant, on the part of said plaintiff; and the taking of the same will be continued from day to day until the same is completed if not finished on the date above mentioned.

EWING AND HALE.
Atty's for Plff.

MARCH 17TH, 1865.

124 STATE OF IOWA, *Des Moines County:*

I received this notice March the 27th, 1865, and on March 28th, 1865, I served the same on D. Raven, esq., attorney for said R. R. Co., by reading this notice to him and delivering to him a true copy thereof in Burlington, Des Moines county, Iowa.

M. HEISEY,
Sheriff Des Moines Co., Iowa.

Service	50
Copy	25
Mileage	20
Postage	05
	$1 00

Paid by Plff's Attorney.

125 Depositions of witnesses taken before H. A. Copeland, clerk of the district court in and for Mills county, Iowa, in accordance with the foregoing and attached notice, on the 14th and 15th days of April, A.D. 1865, between the hours of 9 c'clock a. m. and six o'clock p. m. of said days, at my office in Glenwood, in said county, to be used in evidence in a suit pending in the District Court in said county, wherein Mills county, Iowa, is plaintiff, and the Burlington and Missouri River Railroad Company is defendant, on the part of the plaintiff.

Deposition of Wm. Kempton.

Int. 1st. What is your name, age, and place of residence? are you acquainted with the parties to this action?

Ans. My name is Wm. Kempton; my age is 45 years; reside in Glenwood, Mills county, Iowa, and am acquainted in Mills county, and know there is such a corporation as the Burlington and Missouri river Railroad Company.

126 Int. 2d. Do you, or do you not, know anything of the character of the N.E. qr. of the W. ½ of N. W. ¼ of sec. 27, tp. 72,

r. 43, in Mills county, Iowa? and if so, state your means of knowledge, and whether or not the same is swampy or overflowed.

Ans. I do know something of the character of the N.E. ¼ of sec. 27, tp. 72, r. 43, in Mills county, Iowa. I have been over it frequently within the last ten years, and know that the greater portion of it is a slough; there is a little dry ground around the edges of the creek where the ground has been raised by the alluvial deposit every spring, or when there is a heavy rain; it is nearly all inundated in the water; water stands on a great part of it all the year round; from my information and knowledge of the W. ½ of the N.W. ¼ of sec. 27, tp. 72, r. 43, it is liable to overflow from Key creek. I have been over it when the water was half hub deep on all but a few dry spots sticking out of the water.

127 Int. 3d. Do you, or do you not know, anything of the character of sec. 29, tp. 72, r. 43, Mills county, Iowa? If so, state your means of knowledge, and whether or not the same is swampy or overflowed lands.

Ans. I do know something of the character of sec. 29, tp. 72, r. 43; I have been over the greater part of it frequently in a boat shooting geese and ducks; 'tis regarded by the hunters here as the best goose pond in the country.

Int. 4th. Do you know anything of the character of the land in the following sections, to wit: W. ½ of sec. 5, and all of sec. 7; sec. 17; sec. 31; and sec. 19; all in tp. 72, r. 43? and if so, state your means of knowledge, and whether or not the same is swampy or subject to overflow.

Ans. I do know something of the character of the lands above described In the spring of 1862 I stood on the high bluff, near Pacific City, from whence I could overlook the whole of said
128 lands. I had in my hands a good, strong, double opera glass. I could see from my position that nearly the whole of it, if not in fact quite all the lands above refered to, were completely covered with water; there was a perfect sea of water over the Missouri river bottom; it seemed to come in at a point above St. Mary, and covering all the first bench lands down to the town of Key Creek; and nearly all the land west and south of Key Creek, where it turns on sec. 21, was covered with water at the same time. There was two large spring in the summer of 1862; it was several weeks, each freshet, before the body of the water pssed off the surface of the country, and the surface was left swampy, muddy, and marshy the greater portion of that season.

WM. KEMPTON.

129 *Deposition of A. R. Wight.*

Int. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action?

Ans. My name is A. R. Wight; age, 36 years. I have resided in Mills county, Iowa, about ten years. I am somewhat acquainted with the parties to this action.

Int. 2d. Do you, or do you not, know anything of the character of the S. ½ of section 17, and the W. ½ of the N. W. ¼ of section 17, and the N. W. ¼, and the W. ½ of the S. W. ¼, and the N. W. ¼ of the N. E. ¼ of sec. 21, all in tp. 71, r. 43? and if so, state your means of knowledge, and whether or not the same is swampy or subject to overflow.

Ans. I am acquainted with this land above described from personal observation, and I know it to be, from personal observation, swamp and overflowed lands, except the N. ½ of S. E. ¼, 17, about half of which only is subjected to overflow.

130 Int. 3d. Do you, or do you not, know anything of the character of the land in the S. W. ¼ of section 17, the W. ½ of section 19, and the S. W. ¼, and the W. ½ of the N. W. ¼ of sec. 29, and the E. ½ of sec. 31, in tp. 72, of r. 43? and if so, state your means of knowledge, and whether or not the same is swampy or subject to overflow.

Ans. I know this land from personal observation, and know it to be swampy and overflowed land.

A. R. WIGHT.

The foregoing depositions of William Kempton and A. R. Wight sworn to and subscribed by the deponents therein severally before me, this 14th April, A. D. 1865.

H. A. COPELAND, *Clerk.*

131 The further taking of depositions in this cause is adjourned till to-morrow morning at 9 o'clock a. m.

H. A. COPELAND, *Clerk.*

SATURDAY MORNING, *April 15th*, 1865.

Pursuant to adjournment I proceeded to the further taking of depositions in this cause.

H. A. COPELAND, *Clerk.*

132 *Deposition of Wm. Street.*

Int. 1st. What is your name, age, and place of residence, and how long have you resided there, and what is your occupation?

Ans. My name is William Street; my age is 38 years; I have resided in Mills county, Iowa, near eleven years; I am a physician and surgeon by profession.

Int. 2d. Have you been over the face of the country in Mills county? and if so, to what extent?

Ans. I have been over the entire county at various times; I have been to or by every house in the county.

Int. 3rd. Have, or have you not, seen the lines of the Burlington & Missouri River railroad in Mills county, Iowa; or could or could you not follow the line of the road by stakes or monuments in said county, or could you follow the line of the said road where it is pretended to have been located and fixed in said county?

133 Ans. I never have seen a stake or monument indicating where the road was, and am of opinion that the line never could have been followed by any one who did not assist in surveying it.

Int. 4th. From the knowledge you have of the country generally in Mills county, Iowa, would you, or would you not, most likely have seen or known where the line of said road was located if there were stakes and monuments erected to designate the same, or would they, or would not they, attract the attention of any ordinary observer in passing over the country?

Ans. They would not attract the attention of any ordinary observer; if they would I would certainly have seen them.

WM. STREET.

134 *Depositions of F. Street.*

Int. 1st. What is your name, age, and place of residence, and occupation, and are you acquainted with the parties to this action?

Ans. My name is Frank Street, residence, Council Bluffs, Pottawattamie county, Iowa; aged 46 years; I am register of the United States land office, at Council Bluffs, Iowa; I am acquainted with the pl'ff, and of the defendant by reputation.

Int. 2nd. Take this paper (here the paper was handed to the witness, hereto attached, and marked "Exhibit A,") and state whether or not it is a correct copy of the original, and where the original is.

Ans. It is a true copy of an original letter written by the commissioner of the General Land Office to the register and receiver of the local land office at Kanesville, Iowa, now called Council Bluffs, and said original letter is now on file in the register's office at Council Bluffs.

135 Int. 3rd. Take this list of lands, examine it, and state where the same are located, and whether or not it is a correct list or description of all swamp and overflowed land selections in Mills county, Iowa, and by whom were they returned to your office, and at what time did they reach your office, and whether or not is it the list of lands refered to in the commissioner's letter under date of Sept. 20th, 1854, refered to by you in your last answer; and if so, whether on the reception of the same the order or request of the commissioner in said letter was obeyed or complied with. (Here the witness was presented with the list of lands hereto attached and marked Exhibit "B".)

Ans. The lands described in this list are situated in Mills county, Iowa, and it is a correct list, or copy of a list, of swamp or overflowed lands now on file in the office of the register of the land office, furnished said office by the surveyor general of Iowa. This original list

136 embraces swamp and overflowed lands in other counties besides Mills; said original list was furnished the land office at Council Bluffs on the 23rd day of October, A. D. 1854, as appears from the filing thereon, and is one of the lists of lands alluded to by the commissioner of the General Land Office, in his letter of September 30th

1854, to the register and receiver at Kanesville, alluded to in my answer to interrogatory No. 2, and the order of the commissioner was complied with at once, as appears from the records of my office.

Int. 4th. Take this paper (here the witness was handed the paper hereto attached, marked Exhibit "C,") examine it, and state what it is?

Ans. It is a true copy of the original certificate of the surveyor general of the State of Iowa, attached to the original list of swamp-lands, now on file in my office in Council Bluffs, referred to in my answer to interrogatory No. 3.

137 Int. 5th. State at what time the list of railroad selections, outside the six and within the fifteen mile limits, was returned and filed in your office at Council Bluffs?

Ans. It was filed in my office as approved on the 23 day of March, A. D. 1859.

FRANK STREET.

The foregoing depositions of William Street and Frank Street were subscribed and sworn to by the deponents therein severally before me this 15th April, A. D. 1865.

H. A. COPELAND, *Clerk.*

Exhibit "A."

138 GENERAL LAND OFFICE, *September 30th*, 1854.

REGISTER AND RECEIVER, *Kanesville, Iowa:*

GENTLEMAN: You will please, on receipt from the surveyor general of the list of swamp and overflowed lands selected for the State of Iowa in your district, note each tract therein embraced in its proper place, on your tract books, in pencil, and decline to permit any entries or locations upon any part of the same.

Very respectfully, your ob't serv't,

JOHN WILSON, *Commissioner.*

139 *Exhibit "B."—List of swamp lands in the Missouri river land district, Iowa. Tracts situated in Mills county, Iowa, in said district.*

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
N fr half of NE qr	5	72	40	53.12	Swampy prairie.
SW qr of NE qr	do	do	do	40.00	Do.
SE qr of NW qr	do	do	do	40.00	Do.
N fr half of NW qr	do	do	do	53.84	Do.
SW qr of SW qr	do	do	do	40.00	Do.
N fr half of NE qr	6	do	do	54.14	Do.
SW qr of NE qr	do	do	do	40.00	Do.
N fr half of NW qr	do	do	do	51.30	Overflowed and swampy.
SE qr of NW qr	do	do	do	40.00	Do. do.
SW qr fr qr of NW qr	do	do	do	36.41	Do. do.
SW qr fr qr of SW qr	do	do	do	37.64	Do. do.
SE qr of SW qr	do	do	do	40.00	Do. do.
NE qr of SW qr	do	do	do	40.00	Do. do.
NW qr of SW qr	do	do	do	37.04	Do. do.
W half of SE qr	do	do	do	80.00	Do. do.
SE qr of SE qr	do	do	do	40.00	Do. do.
NW qr fr qr of NW qr	7	do	do	38,32	Do. do.
SW qr fr of NW qr	do	do	do	39.09	Do. do.
NW qr fr qr of SW qr	do	do	do	39.85	Do. do.
SW fr qr of SW qr	do	do	do	40.62	Do. do.
E half of NW qr	do	do	do	80.00	Do. do.
E half of SW qr	do	do	do	80.00	Do. do.
NE qr	do	do	do	160.00	Do. do.
E half of SE qr	do	do	do	80.00	Lake.
West half	do	do	do	320.00	Lake.
NW qr of NW qr	do	do	do	40.00	Lake.
140 NE qr of NE qr	18	72	40	40.00	Lake.
NW fr qr	do	do	do	162.12	Swampy.
N half of NW qr	do	do	do	80.00	Do.
SW qr of NW qr	17	do	do	40.00	Do.
W half of NE qr	18	do	do	80.00	Do.
SE qr of NE qr	do	do	do	40.00	Do.
SE qr	do	do	do	160.00	Do.
NW qr of SW qr	do	do	do	41.14	Overflowed.
SW fr qr of SW qr	do	do	do	41.20	Do.
NW fr qr of NW qr	19	do	do	41.09	Do.
SW qr fr qr of NW qr	do	do	do	40.84	Do.
E half of NW qr	do	do	do	80.00	Do.
NE qr	do	do	do	160.00	Swamps and overflowed.
NW fr qr of NE qr	1	73	40	35.20	Overflowed.
NE fr qr of NW qr	do	do	do	35.23	Do.
SW qr of NE qr	do	do	do	40.00	Do.
SE qr of NW qr	do	do	do	40.00	Do.
SW qr	do	do	do	160.00	Do.
NW qr fr qr of NW qr	3	do	do	35.85	Do.
SW qr of NW qr	do	do	do	40,00	Do.
W half of SW qr	do	do	do	80.00	Do.
NE fr qr of NE qr	4	do	do	35.94	Do.
NW fr qr of NE qr	do	do	do	36.03	Swampy.
S half of NE qr	do	do	do	80.00	Do.
SE qr	do	do	do	160.00	Do.
All of	9	do	do	640.00	Do. and overflowed.
West half	10	do	do	320.00	Do. do.
S half of SE qr	11	do	do	80.00	Do. do.
141 NE qr of SE qr	11	do	do	40.00	Do. do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	Rng.	Acres.	Remarks.
West half	12	73	40	320.00	Swampy and overflowed.
NE qr	14	do	do	160.00	Do. do.
NW qr of SE qr	do	do	do	40.00	Swampy.
S half of NW qr	do	do	do	80.00	Do.
SW qr	do	do	do	160.00	Do.
W half of NE qr	15	do	do	80.00	Overflowed.
SE qr of NE qr	do	do	do	40.00	Do.
NW qr	do	do	do	160.00	Do.
SW qr	do	do	do	160.00	Do.
SE qr	do	do	do	160.00	Do.
W half of SE qr	17	do	do	80.00	Overflows.
SE qr of SE qr	do	do	do	40.00	
E half of SW qr	do	do	do	80.00	Swampy.
NE qr	20	do	do	160.00	Overflowed.
NE qr of NW qr	do	do	do	40.00	Swampy.
SE qr	do	do	do	160.00	Overflows.
All of	21	do	do	640.00	
West half	22	do	do	320.00	Overflowed and swampy.
NE qr	do	do	do	160.00	
North half	28	do	do	320.00	Marshy.
W half of SE qr	do	do	do	80.00	
N half of SW qr	do	do	do	80.00	
All of	29	do	do	640.00	Swampy and overflowed.
SE qr	30	do	do	160.00	Same.
SE qr of SW qr	do	do	do	40.00	Swampy.
SW fr qr of SW qr	do	do	do	34.58	Do.
W half of NE qr	31	do	do	80.00	Do.
NE qr of NE qr	do	do	do	40.00	Overflowed.
E half of NW qr	do	do	do	80.00	Swampy.
SW fr qr of SW qr	do	do	do	34.96	Do.
142 NW fr qr of NW qr	31	73	40	34.65	Swampy.
SE qr	do	do	do	160.00	Swampy and overflowed.
F half of SW qr	do	do	do	80.00	Do.
N W fr qr. of S W. qr	do	do	do	35.36	Do.
SW fr qr of SW qr	do	do	do	35.57	Overflowed.
N fr qr of NE qr	2	71	41	57.21	Overflowed timber.
N fr half of NW qr	do	do	do	56.81	Do.
S half of NE qr	do	do	do	80.00	Do.
S half of NW qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
N E qr of SE qr	do	do	do	40.00	Do.
SW qr	do	do	do	160.00	Do.
SE qr of NE qr	3	do	do	40.00	Do.
E half of SE qr	do	do	do	80.00	Do.
SW qr of SE qr	do	do	do	40.00	Do.
S half of SW qr	do	do	do	80.00	Do.
N fr half of NE qr	6	do	do	53.80	Do.
SE qr of NE qr	do	do	do	40.00	Do.
E half of SE qr	do	do	do	80.00	Swampy.
E half of NW qr	8	do	do	80.00	Overflowed.
E half of SW qr	do	do	do	80.00	Swamp, scattering timber.
NE qr	do	do	do	160.00	Do. do.
SE qr	do	do	do	160.00	Do. do.
All of	9	do	do	640.00	Marsh and overflowed.
All of	10	do	do	640.00	Do. do.
NW qr	11	do	do	160.00	Do. do.
NW qr of NE qr	do	do	do	40.00	Swampy.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
W half of SW qr	11	71	41	80.00	Swampy.
143 W half of NW qr	14	73	40	80.00	Do.
All of	15	do	do	640.00	
NE qr of NE qr	17	do	do	40.00	Overflowed.
All of	21	do	do	640.00	Swamp and some timber.
West half	22	do	do	320.00	Swampy.
W half of NE qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
West half	27	do	do	320.00	Do.
W half of NE qr	do	do	do	80.00	Do.
All of	28	do	do	640.00	Overflowed, scattering timber.
East half	29	no	do	320.00	Swampy.
E half of NW qr	do	do	do	80.00	Do.
E half of SW qr	do	do	do	80.00	Do.
SE qr of SE qr	31	do	do	40.00	Do.
E half of NW qr	32	do	do	80.00	Overflowed.
NW qr	do	do	do	160.00	Do.
SE qr	do	do	do	160.00	Swampy.
SW qr	do	do	do	160.00	Overflowed and swampy.
All of	33	do	do	640.00	
W half	34	do	do	320.00	
SE qr	1	72	41	160.00	Marshy.
E half of NE qr	12	do	do	80.00	Do.
E half of SE qr	do	do	do	80.09	Overflowed.
E half of	13	do	do	320.00	Do. timber.
SW qr	do	do	do	160.00	Do. do.
S half of SE qr	14	do	do	80.00	Do. do.
E half of SW qr	do	do	do	80.00	Swampy.
NW fr qr of NW qr	18	do	do	39.72	Overflowed timber.
SW fr qr of NW qr	do	do	do	39.97	Do. do.
NW fr half of SW qr	do	do	do	40.22	Do. do.
144 SW fr qr of SW qr	18	72	41	40.47	Overflowed timber.
NW fr qr of NW qr	19	do	do	40.69	Do.
SW fr qr of NW qr	do	do	do	40.87	Do.
E half of NW qr	do	do	do	80.00	Do.
E half of SW qr	do	do	do	80.00	Do.
NW qr fr. of SW qr	do	do	do	41.04	Do.
E half of NW qr	23	do	do	80.00	Do.
NE qr	do	do	do	160.00	Do.
SE qr	do	do	do	160.00	Overflowed.
SW qr	do	do	do	160.00	Do.
S half of SE qr	22	do	do	80.00	Swampy.
All of	24	do	do	640.00	Overflowed, some timber.
NE qr	25	do	do	160.00	Swampy.
W half	do	do	do	320.00	Do. some timber.
All of	26	do	do	640.00	Do.
NE qr	27	do	do	160.00	Do.
E half of SE qr	do	do	do	80.00	Do.
NE qr	34	do	do	160.00	Overflowed prairie.
E half of NW qr	do	do	do	80.00	Swampy.
NW qr of NW qr	do	do	do	40.00	Do.
All of	35	do	do	640.00	Overflowed, some timber.
NW qr	36	do	do	160.00	Swampy prairie.
N fr half of NE qr	1	72	42	62.18	Swampy.
S half of NE qr	do	do	do	80.00	
E half of SE qr	do	do	do	80.00	Overflowed timber.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
E half of NE qr	12	72	42	80.00	Overflowed timber.
SE qr	do	do	do	160.00	Do. do.
N fr half of NE qr	6	do	do	62.44	Overflowed.
145 S half of NE qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
NE qr of SE qr	do	do	do	40.00	Do.
NW fr qr of NW qr	7	do	do	35.68	Do.
NE qr of NW qr	do	do	do	40.00	Do.
NE fr qr of NE qr	1	73	do	35.27	Swampy prairie.
NW fr. qr of NE qr	do	do	do	34.80	Do. do
S half of NE qr	do	do	do	80.00	Do. do
NE half of SE qr	do	do	do	40.00	Overflowed.
NW qr of SE qr	do	do	do	40.00	Do.
SW qr	do	do	do	160.00	Swampy.
NE fr qr of NE qr	5	do	do	37.14	Overflowed.
NW fr qr of NE qr	do	do	do	36.86	Do.
S half of NE qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
E half of SW qr	do	do	do	80.00	Do.
W half of SE qr	8	do	do	80.00	Swampy.
SW qr	do	do	do	160.00	Overflowed.
E half of NE qr	11	do	do	80.00	Swamp.
E half of SE qr	do	do	do	80.00	Same.
West half	12	do	do	320.00	Same, overflowed.
W half of NW qr	13	do	do	80.00	Do.
W half of SW qr	do	do	do	80.00	Do.
NE qr	14	do	do	160.00	Swampy.
NE qr of SE qr	do	do	do	40.00	Overflowed.
W half of NW qr	17	do	do	80.00	Do.
East half	18	do	do	320.00	Do.
E half of SW qr	do	do	do	80.00	Swampy.
W half of NE qr	19	do	do	80.00	Overflowed.
E half of NW qr	do	do	do	80.00	Do.
146 E half of SW qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
West half	24	do	do	320.00	Do.
NW qr of SE qr	do	do	do	40.00	Do.
S half of SE qr	do	do	do	80.00	Do.
N half of NE qr	25	do	do	80.00	Do.
W half of NE qr	30	do	do	80.00	Swampy.
E half of NW qr	do	do	do	80.00	Overflowed.
NW fr qr of NW qr	do	do	do	35.22	Do.
SW fr qr of NW qr	do	do	do	35.66	Do.
NW fr qr of SW qr	do	do	do	36.10	Do.
SW fr qr of SW qr	do	do	do	36.54	Do.
E half of SW qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
E half of NW qr	31	do	do	80.00	Do.
W half of NE qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.
NE qr	36	do	do	160.00	Swampy.
E half SE qr	do	do	do	80.00	Overflowed.
SE qr of SE qr	25	do	do	40.00	Do.
N fr half of NW qr	1	71	43	59.46	Swampy.
S half of NW qr	do	do	do	80.00	Do.
W half of SE qr	do	do	do	80.00	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
All of fr	2	71	43	595.12	Swampy.
All of fr	3	do	do	591.24	Do.
All of fr	4	do	do	581.50	Do.
N fr half	5	do	do	263.50	Do.
SE qr	do	do	do	160.00	Overflowed.
147 N half of SW qr	do	do	do	80.00	Do.
NE qr	6	do	do	131.20	Do. timber.
N fr half of NW qr	do	do	do	51.20	Do.
SE qr of NW qr	do	do	do	40.00	Do.
NW qr of SE qr	do	do	do	40.00	Do.
E half of SE qr	do	do	do	80.00	Do.
Lots No. 1, 2 and 3	do	do	do	128.55	Do.
Lots No. 1, 2, 3 and 4	7	do	do	224.41	Do.
E half of NE qr	do	do	do	80.00	Do.
E half of SE qr	do	do	do	80.00	Do.
S half of NW qr	8	do	do	80.00	Do. prairie.
SW qr	do	do	do	160.00	Do.
East half	do	do	do	320.00	Do.
All of	9	do	do	640.00	Do.
NW qr	10	do	do	160.00	Do.
W half of SW qr	do	do	do	80.00	Swampy and overflowed.
NE qr of SW qr	do	do	do	40.00	Do.
NW qr of SE qr	do	do	do	40.00	Do.
NE qr of NE qr	do	do	do	40.00	Do.
W half of NE qr	do	do	do	80.00	Do.
N half of NW qr	11	do	do	80.00	Swampy.
NE qr of NE qr	do	do	do	40.00	Do.
NW qr of NE qr	do	do	do	40.00	Do.
NW qr of NW qr	12	do	do	40.00	Do.
NW half of NW qr	15	do	do	40.00	Do.
All of	17	do	do	640.00	Swampy and overflowed.
E half of NE qr	18	do	do	80.00	Overflowed.
E half of SE qr	do	do	do	80.00	Do.
Lots 1, 2, 3 and 4	do	do	do	217.66	Do.
Lots 1, 2, 3 and 4	19	do	do	199.22	Overflowed, timber.
E half of NE qr	do	do	do	80.00	Do. do.
148 E half of SE qr	do	do	do	80.00	Do. do.
All of	20	do	do	640.00	Do. prairie.
West half	21	do	do	320.00	Do.
W half of NE qr	do	do	do	80.00	Swampy.
SW qr of NW qr	27	do	do	40.00	Do.
W half of SW qr	do	do	do	80.00	Do.
SE qr. of SW qr	do	do	do	40.00	Do.
West half	28	do	do	320.00	Do.
SE qr	do	do	do	160.00	Do.
W half of NE qr	do	do	do	80.00	Do.
SE qr of NE qr	do	do	do	40.00	Do.
All of	29	do	do	640.00	Overflowed.
E half of NE qr	30	do	do	80.00	Do. timber.
Lots No. 1, 2, 3 and 4	do	do	do	162.24	Do. do.
Lot No. 1	31	do	do	1.65	Do. do.
NE qr of NW qr	32	do	do	40.00	Do. do.
NE qr	do	do	do	160.00	Swampy and overflowed.
E half of SE qr	do	do	do	80.00	Do. do.
Lots No. 1, 2, 3 and 4	do	do	do	194.58	Timber do.
All of	33	do	do	640.00	Swampy do.
West half	34	do	do	320.00	Lake.
SE qr	do	do	do	160.00	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
SW qr of NE qr	34	71	43	40.00	Swampy.
W half of SW qr	35	do	do	80.00	Lake.
SE qr of SW qr	do	do	do	40.00	Do.
SW qr of SE qr	do	do	do	40.00	Do.
149 N fr half of NW qr	5	72	43	61.85	Swampy prairie.
S half of NW qr	do	do	do	80.00	Do. do.
W half of SE qr	do	do	do	80.00	Do. do.
SW qr.	do	do	do	160.00	Do. do.
N fr half of NE qr	6	72	43	61.86	Do. do.
N fr half of NW qr	do	do	do	64.23	Do.
SW fr qr of NW qr	do	do	do	48.62	Do.
SE qr of NW qr.	do	do	do	40.00	Do.
S half of NE qr	do	do	do	80.00	Do.
SE qr	do	do	do	160.00	Do.
E half of SW qr	do	do	do	80.00	Do.
NW fr qr of SW qr.	do	do	do	42.33	Do.
SW fr qr of SW qr.	do	do	do	42.04	Do.
All of fr	7	do	do	645.52	Swampy and overflowed.
All of	8	do	do	640.00	Do. do.
SW half of NW qr.	9	do	do	40.00	Swampy.
W half of SW qr	do	do	do	80.00	Do.
All of	17	do	do	640.00	Do.
All of fr	18	do	do	642.28	Do.
All of fr	19	do	do	640.12	Timber and overflowed.
All of	20	do	do	640.00	Prairie Do.
All of	21	do	do	640.00	Do.
SW qr	22	do	do	160.00	Do.
W half of SE qr.	do	do	do	80.00	Do.
W half of NW qr	do	do	do	80.00	Do.
SE qr of NW qr	do	do	do	40.00	Do.
W half of SW qr	23	do	do	80.00	Do.
W half of SE qr	26	do	do	80.00	Overflowed.
SE qr of SE qr	do	do	do	40.00	Do.
150 West half	do	72	43	320.00	Do.
All of	27	do	do	640.00	Do.
All of	28	do	do	640.00	Do.
All of	29	do	do	640.00	Do.
All of fr	30	do	do	638.76	Do.
All of fr	31	do	do	639.20	Timber and swampy.
All of	32	do	do	640.00	Do.
All of	33	do	do	640.00	Do.
All of	34	do	do	640.00	Do.
All of	35	do	do	640.00	Do.
W half of SW qr	36	do	do	80.00	Do.
SE qr of SW qr	do	do	do	40.00	Do.
NE fr qr of NE qr	5	73	43	41.83	Do.
NW fr qr of NE qr	do	do	do	41.48	Do.
NE fr qr of NW qr	do	do	do	41.13	Do.
NW fr qr of NW qr	do	do	do	40.78	Do.
S half of NE qr	do	do	do	80.00	Do.
S half of NW qr	do	do	do	80.00	Do.
SW qr	do	do	do	160.00	Do.
W half of SE qr	do	do	do	80.00	Do.
All of fr	6	do	do	628.23	Do.
All of fr	7	do	do	635.82	Swampy and overflowed.
West half	8	do	do	320.00	Do. do.
NW qr	17	do	do	160.00	Do. do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
W half of SW qr	17	73	43	80.00	Swampy and overflowed.
NE qr	18	do	do	160.00	Do. do.
E half of NW qr	do	do	do	80.00	Do. do.
NW fr qr of NW qr	do	do	do	41.47	Do. do.
151 SW fr qr of NW qr	do	73	43	41.39	Swampy and overflowed.
NW fr qr of SW qr	do	do	do	41.32	Do.
NE qr of SW qr	do	do	do	40.00	Do.
N half of SE qr	do	do	do	80.00	Do.
All of fr	19	do	do	646.40	Do.
SE qr of SE qr	18	do	do	40.00	Do.
W half of NW qr	20	do	do	80.00	Do.
W half of SW qr	do	do	do	80.00	Do.
All of fr	30	do	do	648.00	Overflowed and swampy.
All of fr	31	do	do	640.98	Do.
SW qr	32	do	do	160.00	Do.
W half of NW qr	do	do	do	80.00	Overflowed.
SE qr	1	72	44	160.00	Do.
S half of NE qr	do	do	do	80.00	Do.
N fr half of NE qr	do	do	do	62.08	Do.
Lots 1, 2, 3, and 4	do	do	do	240.87	Do.
Lot No. 1	2	do	do	4.78	Do.
Lots 1 and 2	11	do	do	44.88	Do,
East half	12	do	do	320.00	Do.
SW qr	do	do	do	160.00	Do.
E half of NW qr	do	do	do	80.00	Do.
SW qr of NW qr	do	do	do	40.00	Do.
Lot No. 1	do	do	do	38.60	Do.
All of	13	do	do	640.00	Do. swampy.
Lots 1, 2, and 3	14	do	do	94.21	Do. do.
SE qr of NE qr	23	do	do	40.00	Do. timber.
SE qr	do	do	do	160.00	Do. do.
Lots 1, 2, 3, and 4	do	do	do	213.37	Do. do.
All of	24	do	do	640.00	Do. do.
All of	25	do	do	640.00	Do. do.
152 E half of NE qr	26	72	44	80.00	Overflowed timber.
NW qr of NE qr	do	do	do	40.00	Do
Lots 1, 2, 3 and 4	do	do	do	196.50	Do
NE qr	36	do	do	160.00	Do
E half of SE qr	do	do	do	80.00	Do
NE qr of NW qr	do	do	do	40.00	Do
Lots 1, 2, 3 and 4	do	do	do	146.57	Do
Lot No. 1	35	do	do	40	Do
Lots 1, 2, 3 and 4	23	73	44	124.85	Swampy.
East half	26	do	do	320.00	Do
SW qr	do	do	do	160.00	Timber and overflowed.
SE qr of NW qr	do	do	do	40.00	Do do
Lots 1 and 2	do	do	do	78.00	Do do
Lot 1	27	do	do	12.60	Do do
E half of SE qr	25	do	do	80.00	Do do
SE qr of SW qr	do	do	do	40.00	Do
W half of SW qr	do	do	do	80.00	Do
Lot No. 1	34	do	do	3.70	Do
NE qr	35	do	do	160.00	Do
NE qr of SE qr	do	do	do	40.00	Do
NE qr of NW qr	do	do	do	40.00	Do
Lots 1, 2, 3 and 4	do	do	do	183.04	Do

Swamp lands, Mills county, Iowa.—Continued.

	Parts of section.	Sec.	Town	R'ng.	Acrer.	Remarks.
	All of	36	73	44	640.00	Overflowed.
	E half of NE qr	17	72	40	80.00	Swampy.
	W half of SE qr	22	73	40	80.00	Swampy.
153	E half of NE qr	22	71	41	80.00	Do
	W half of SE qr	27	do	do	80.00	Do
	SW qr of NW qr	29	do	do	40.00	Do
	NW qr of SW qr	1	do	do	40.00	Do
	E half of SW qr	1	72	41	80.00	Marshy.
	SW qr of SE qr	19	do	do	40.00	Timber and overflowed.
	SW qr	29	do	do	60.00	Do do
	NE qr	30	do	do	160.00	Do do
	E half of SE qr	do	do	do	180.00	Swampy.
	W half of NW qr	32	do	do	80.00	Overflowed.
	SE qr of NW qr	do	do	do	40.00	Swampy.
	NE qr of SW qr	do	do	do	40.00	Do
	NE fr qr of NW qr	6	73	41	38.60	Overflowed.
	NW fr qr of NW qr	do	do	do	32.73	Swampy.
	SW fr qr of NW qr	19	do	do	35.17	Do
	NW fr qr of NW qr	30	do	do	35.03	Do
	NW fr qr of SW qr	31	do	do	38.45	Timber overflowed.
	SW fr qr of SW qr	do	do	do	38.95	Do do
	N fr half of NE qr	5	72	43	62.03	Swampy prairie.
	SW qr of NE qr	do	do	do	40.00	Do do
	SE qr of SE qr	do	do	do	40.00	Do do
	SE qr of SW qr	23	23	do	40.00	Overflowed.
	E half of NW qr	do	do	do	80.00	Do and swampy.
	NW qr of NE qr	do	do	do	40.00	Do
	W half of SE qr	12	do	do	80.00	Do
	W half of SW qr	15	do	do	80.00	Do
	E half of SE qr	do	do	do	80.00	Do
154	SW qr of NE qr	15	72	43	40.00	Swmapy.
	NE qr of SW qr	36	do	do	40.00	Do.
	NE qr of SE qr	5	73	43	40.00	Do.
	E half of SW qr	17	do	do	80.00	Overflowed.
	E half of NW qr	20	do	do	80.00	Do.
	E half of SW qr	do	do	do	80.00	Do. and swampy.
	W half of NW qr	29	do	do	80.00	Do. Do.
	SE qr of NW qr	32	do	do	40.00	Do. Do.
	NE fr qr of NE qr	1	73	44	40.37	Timber and overflowed.
	NW fr qr of NE qr	do	do	do	40.23	Do.
	NE qr of NW qr	do	do	do	40.08	Swampy.
	NW qr of NW qr	do	do	do	39.94	Do.
	S half of NE qr	do	do	do	80.00	Overflowed.
	S half of NW qr	do	do	do	80.00	Do.
	South half	do	do	do	320.00	Do.
	NE fr qr of NE qr	2	do	do	39.86	Do.
	NW fr qr of NE qr	do	do	do	39.86	Do.
	NW fr qr of NW qr	do	do	do	39.86	Do.
	S half of NE qr	do	do	do	80.00	Do.
	E half of SE qr	do	do	do	80.00	Do.
	Lots 1, 2, 3, and 4	do	do	do	204.12	Do.
	Lots 1 and 2	11	do	do	118.61	Do.
	East half	12	do	do	320.00	Do.
	NW qr	do	do	do	160.00	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'nge.	Acres.	Remarks.
N half of SW qr	12	73	44	80.00	Overflowed.
SE qr of SW qr	do	do	do	40.00	Do.
155 Lot No. 1	do	do	44	31.10	Do.
E half of SE qr	13	73	do	80.00	Overflowed
NE qr	do	do	do	160.00	Overflowed.
Lots 1, 2, 3, and 4	do	do	do	190.37	Do.
East half	24	do	do	320.00	Swampy.
East half of SW qr	do	do	do	80.00	Do.
SW qr of SW qr	do	do	do	40.00	Do.
Lot 1, 2, and 3	do	do	do	130.92	Do.
Lot No. 1	27	do	do	12.60	Swampy.

156 *Exhibit "C."*

SURVEYOR GENERAL'S OFFICE,
Dubuque, Sept. 20th, 1854.

I, Warren Lewis, surveyor general of the State of Iowa, do hereby certify that the foregoing list, marked No. 3, is a correct transcript of the original lists of selections made by the county surveyors or State locating agents; that the same has been carfully compared with the field notes, plats, and other evidences on file in this office; and by the affidavits of the said county surveyors or State locating agents, it appears that the greater part of each smallest legal subdivision of the lands embraced in said list is swampy or subject to such overflow as to render it unfit for cultivation, and is therefore of the character contemplated by the act of 28th September, 1850.

WARREN LEWIS, *Sur'or Gen'l.*

157 STATE OF IOWA, *Pottwattem County, ss:*

I, Frank Street, register of the United States land office at Council Bluffs, Iowa, do hereby certify that the list of lands hereto attached, and the certificate from the surveyor general of Iowa, and also the letter from the commissioner of the general land office, of September 30th, A. D. 1854, also hereto attached, marked respectively Exhibits "A" "B" and "C," are each and every of them, true and correct copies of the original to which they refer; that the list of lands is a correct, perfect, and true copy of the original list which was furnished my office by the surveyor general of Iowa, and the certificate of the said surveyor general hereto attached, is a correct and perfect copy of the original certificate which accompanied said list of lands, and that the letter hereto attached is a perfect, true, and correct copy of the original letter; all of which remain and are now on file at my office.

In witness whereof, I have hereunto set my hand this April 15th, 1865.

FRANK STREET, *Register.*

158 STATE OF IOWA, *Mills County.*

I, H. A. Copeland, clerk of the District Court, in and for said county, Iowa, do hereby certify that the foregoing depositions of Wm. Kempton, A. R. Wight, Wm. Street, and Frank Street, were taken before me at my office, in Glenwood, Mills county, Iowa, in pursuance of the foregoing notice hereto attached, on the 14th and 15th days of April, A. D. 1865, between the hours of 9 o'clock a. m. and 6 o'clock p. m. of said days, and that after the same had been reduced to writing by me and carefully read over to said deponents respectively, they were subscribed and sworn to by each of said deponents at the time and place therein specified, and that the papers hereto attached, and marked respectively Exhibits "A," "B," and "C," are the identical papers handed to witness, Frank Street, and refered to as said exhibits in his deposition.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this 15th day of April, A. D. 1865.

[L. S.] H. A. COPELAND, *Clerk.*

Fee bill :

Copeland taking dep's	$4 00
A. R. Wight, witness	1 80
Wm. Kempton, "	2 00
Wm. Street, "	1 00
Frank Street, "	3 00

Endorsed: 61. Mills county, Iowa, *vs.* B. & M. R. R. R. Depositions. Filed April 15th, '65. H. A. Copeland, clerk.

159 Depositions of witnesses, taken at the clerk's office in Glenwood, Mills county, Iowa, on the 27th day of October, A. D. 1844, in persuance of the foregoing notice, before H. A. Copeland, clerk of the District Court, in and for said county, to be read as evidence in a suit pending in said county, wherein Mills county, Iowa, is plaintiff and the Burlington and Missouri River Railroad Company is defendant, on the part of the plaintiff.

Deposition of N. P. Woods.

Ques. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action ?

Ans. My name is N. P. Woods; age 27 years; residence, Sidney, Iowa. I am acquainted with some of the officers of the Burlington and Missouri River Railroad Company, and am acquainted some in Mills county.

Qus. 2d. Have you, or have you not, ever seen the completed portion of said railroad? and if so, state how far, and to what
160 place the same is completed; how long it has been completed, there, and where it begins.

Ans. I have seen the completed portion of the road. It is completed to Attumwa, Wappello county, Iowa. I don't know how long it has been completed to that place. I think it was completed in 1859, but am not certain. Its place of beginning is at Burlington, Des Moines county, Iowa.

Qus. 3d. To what place was the road completed and opperated on the 15th of May, 1856, as near as you can remember?

Ans. I can't say. I have never road over the road at that time.

Qus. 4. State, as near as you can, the number of miles said road is now completed and opperated.

Ans. I believe it is seventy-five miles.

Qus. 5. State, as near as you can, the number of miles it is from Attumwa to Mt. Pleasant, Iowa, and from Attumwa to Glenwood, Iowa.

161 Ans. It is forty-seven miles, so called, from Attumwa to Mt. Pleasant, and from Attumwa to Glenwood it is near 200 miles.

Qus. 6. Have you, or have you not, as agent of the Burlington and Missouri River Railroad Company, disposed, or assisted in disposing of, in connection with other officers of said company for the use of said company, any of the lands in controversy? and if so, state the particulars.

Ans. I have delivered papers sent out by the company, and received money for certain lands in Mills county. I do not know, of my own personal knowledge, whether they were lands in controversy or not.

Qus. 7. State whether or not they are working on said road anywhere west of Attumwa.

Ans. I don't know whether they are or not.

Qus. 8. State when you was at Attumwa, Iowa, last, as near as you can, and whether they were working on said road there, west of Attumwa.

162 Ans. I was at Attumwa on or about the 5th of October the present month. I was not on the line of the road west of Attumwa, and can't say whether they were at work or not. My impression is they were not.

N. P. WOODS.

Adjourned till to-morrow morning, at 9 o'clock.

H. A. COPELAND, *Clerk D. C.*

Deposition of James M. Dews.

Qus. 1st. What is your name, age, and place of residence? and are you acquainted with the parties to this action?

Ans. My name is James M. Dews; age 45 years. I reside at Glenwood, Mills county, Iowa, and I am acquainted with Mills county, and know that there is such a company as the Burlington and Missouri River Railroad Company.

163 Qus. 2d. Did you, or did you not, ever buy of Mills county any of the lands in controversy in this action? and if so, have you ever paid for the same? and if so, how much did you pay, and

what is the description of the lands you purchased? when did you purchase the same, and have you ever secured any title thereto?

Ans. I, on the 21st day of May, 1857, bought of Mills county the N.E. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$, and the N.W. of the N.E. $\frac{1}{4}$ of section No. twenty-one, (21,) in township No. seventy-one, (71,) of range No forty-three, (43,) for which I paid one hundred dollars at that date. And also on the 22d day of September, 1857, I bought of said county the east $\frac{1}{2}$ of the N.W. $\frac{1}{4}$, and the S.W. $\frac{1}{4}$ of N.W. $\frac{1}{4}$ of section thirty-five, (35,) township No. seventy-two, (72,) north of range forty-three, (43,) for which I paid one dollar and twenty-five cents (25 cts.) per acre. And I also have an interest in the E. $\frac{1}{2}$ of the S.W. $\frac{1}{4}$ section No. twenty-nine, (29,) tp. seventy-two, (72,) range forty-three, (43,) and also the west $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of section twenty-nine, same
164 township and range. I have the receipts for the money paid for those described in section 21, and also those described in section 35 above, given me by the clerk of District Court. And have also in my possession the receipts for that described as lying in section 27, given to George A. Eayres, bearing date 3d April, 1857, since which time I have received a conveyance of those paid for by Eayres of the interest he acquired, by such payment to these lands. I have never received any conveyance from county or State for any of the lands above described.

The sum of two hundred dollars is the amount paid by George S. Eayres for the two tracts described as lying in section 29, as above described.

I and Eayers have paid the money for the lands described above, and have no other evidence of title for the same, other than the receipt for the money.

165 J. W. DEWS.

Deposition of Nelson Lathrop.

Qus. 1st. What is your age, name, and place of residence; and are you acquainted with the parties to this action?

Ans. My name is Nelson Lathrop; age 55 years; I reside in Mills county, Iowa; I am acquainted in Mills connty, and know something of the Burlington and Missouri River Railroad Company.

Qus. 2d. Were you, or were you not, ever in the employ of the Burlington and Missouri River Railroad Company, the defendant herein? and if so, state when, and in what capacity did you act?

Ans. I was in the employ of the company; I acted in the capacity of a director; I was elected director in May or June, A. D. 1856, and I acted in that capacity for one year.

166 Qus. 3d. State what you know with regard to the adoption of the line or lines of the said road, or surveys thereof, by the board of directors of said company, when the same was adopted; and all the particulars in relation thereto?

Ans. The first preliminary survey was made in the early part of summer of 1856, upon which the board proceeded to make a location, and made out their plats of land, and forwarded to the different land offices, and received letters from these land officers, stating that the

land could not be located until they had a permanent survey, and accordingly rejected the plats first forwarded. The company then went to work and made a permanent survey, upon which a location was made by the board of directors in the latter part of March, or the first of April, I am not sure which; I think in April, 1857. I was a member of the board of directors at the time these transactions were had.

167 Qus. 4. Was you, or was you not, one of a committee on the part of the board of directors of said company to go to Iowa city, Iowa, at the time of the grant of lands was made by the State of Iowa to certain railroad companies, which was passed by the legislature of said State, July 14th, 1856? and if so, state for what purpose you were so appointed by said board, and what you did in your official capacity in behalf of said railroad company, the defendant herein; and particularly what was done in reference to lands which had been selected as swamp and overflowed lands, and give all the particulars thereto.

Ans. I was one of such committee on behalf of the defendant herein, and went to Iowa city, and was there at the time said act was passed. The committee appointed by said board went for

168 the purpose of receiving and accepting the grant from the State on behalf of the Burlington and Missouri River Railroad Company. We received the grants of lands, and there was no mention made of swamp lands, and we had no expectation whatever of getting any swamp lands by the said grant. During the time the road was under the control of Iowa directors there was no expectation whatever, or intention on the part of said railroad company, the defendant herein, to get or claim any lands which had been selected as swamp and overflowed lands, nor was there ever any such lands claimed by the defendant herein until after the road passed into the control of eastern men, not residents of the State of Iowa.

169 Qus. 5. State, if you know, about the time the control of said road passed into the hands of said eastern men, and how they obtained such control.

Ans. I think it was in the month of May or June, 1857. They got control of the road by subscribing five hundred thousand dollars worth of stock, which gave them a majority of the stockholders; and on that ground they elected the directors from the eastern States, except one from Iowa. I am not positive of the exact amount they subscribed, but I am certain it was sufficient to give them a majority of the stock of said company.

Qus. 6. Did you, or did you not, by yourself, or in company with others, receive an appointment by the board of directors of the defendant herein to go out west, along the line of said road in Iowa,

170 for any purpose? and if so, state at what time you received said appointment, what you was authorized to do for and on behalf of said board, and what you did do. Please give all the particulars.

Ans. Judge Newman and myself were appointed in Agust or September, 1856, by the board of directors of said company, for the

purpose of passing along the line of the road west to solicit donations of money and real estate for said company; and also to solicit of the several counties to donate the lands which had been selected as swamp and overflowed lands. We passed along the line of the road as far as the Missouri river west, and did solicit and receive donations of money, lands, and town lots for said company.

Qus. 7. Did you, or did you not, for and in behalf of said company, in the capacity before refered to, solicit of the county judge
171 of Mills county, the plaintiffs herein, a donation of all the lands lying in said county which had been selected as swamp and overflowed lands?

Ans. I did.

Qus. 8. State, if you know, to what point, or the number of miles, said road was completed at the time, 15th of May, 1856, and at what time it was completed to Mt. Pleasent and Attumwa, Iowa.

Ans. I think there was about fifteen miles of the road completed the 15th of May, 1856; and I think it was completed to Mt. Pleasent in May, 1857, and to Attumwa in the latter part of 1858, or the forepart of the year 1859.

Ques. 9. Where did you reside previous to moving to Mills county, Iowa, and at what time did you remove to Mills county, Iowa, and how long had you resided there?

172 Ans. I resided in Mt. Pleasent, Iowa. I moved from that place to Mills county in 1862. I had resided in Mt. Pleasent, Iowa, for twenty-two years previous to my removal to Mills county, Iowa.

N. LATHROP.

173 STATE OF IOWA, *Mills County, ss:*

I, H. A. Copeland, clerk of the District Court in and for said county and State, hereby certify that, by virtue of the foregoing and attached notice, the foregoing depositions of N. P. Woods, J. M. Dews, and N. Lathrop were taken before me; and after the same had been reduced to writing by me, and read over to the said witnesses, were subscribed and sworn to by the respective deponents therein, at Glenwood, in said county, on the 27th and 28th days of October, A. D. 1864, as set out in the foregoing.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court this 28th day of October, 1864.

[L. S.] H. A. COPELAND,
Clerk Dist. Court.

Fee bill:

Taking deposition	$4 00
N. P. Wood, wit., p'd by p't'ff	3 40
J. M. Dews	1 50
N. Lathrop	1 40

174 To the Burlington and Missouri River Railroad Company:

You will take notice that on the 27th day of October, 1864, between the hours of 9 o'clock a. m. and six o'clock p. m., I will proceed to take the depositions of N. P. Woods before H. A. Copeland, clerk of the District Court of Mills county, Iowa, at his office in the court-house, in Glenwood, to be used and read in evidence on the trial of a certain cause now pending in said court, wherein Mills County is plaintiff and you are the defendant, the taking of which said deposition will be continued from day to day, between the same hours; if not completed on that day, until the same is completed, the same to be used on the part of the plaintiff on the trial of the above-named cause.

WM. HALE,
Att'y for Plaintiff.

175 *Notice to take depositions.*

MILLS COUNTY
vs.
B. AND M. R. R. Co.

I, Josiah Farrar, being duly sworn, deposes and says that this notice came into my hands this 17th day of October, 1864; and I further swear that I, on the same day, served the same on N. P. Woods, agent of the Burlington and Missouri River Rail Road Company, engaged in the active management of the business of said company.

I delivered to him a copy in Mills county, Iowa; he waived the reading of the same.

JOSIAH FARRAR.

Subscribed and sworn to before me this 19th day of October, 1864.
H. A. COPELAND, *Clerk.*

176 To the Burlington and Missouri River Rail Road Company:

You will take notice that, on the 27th day of October, 1865, before H. A. Copeland, clerk of the District Court in and for Mills county, Ohio, at his office, in the city of Glenwood, in the court house, I will proceed to take the deposition of H. C. Walker, J. M. Dews, D. H. Soloman, Joel Soloman, N. Lathrop, A. R. Wright, R. B. Lounsend and J. S. Sharp, Frank Street, and others, to be read in evidence on the trial of a certain cause pending in said District Court of Mills county, Iowa, wherein Mills county is plaintiff and you are the defendant, on the part of the said plaintiff; said depositions to be taken between the hours of 9 o'clock a. m. and six p. m. of said day; and if not completed on that day, to be continued from day to day until the same is completed.

HALE AND EWING,
Att'y for Pl'ff.

OCTOBER 17*th*, 1864.

177 This notice came into my hands this 18th day of October, 1864; and I do hereby swear that on the said day I served the same on N. P. Woods, agent of the Burlington and Missouri River Railroad Company, engaged in active management of the business of said company, by reading and delivering to him a true copy of the same in Glenwood, Mills county, Iowa.

JOSIAH FARRAR.

Subscribed and sworn to and before me this 18th day of October, 1861.

[L. S.] J. D. EDMNDSON,
Notary Public.

Fees due J. Farrar:

Service	$25
Copy	15
Made	10
	$50

178 To the Burlington and Missouri River Rail Road Company:

You will take notice that on the 11th day of March, A. D. 1865, before H. A. Copeland, clerk of the District Court of Mills county, Iowa, at his office, in Glenwood, Iowa, I will proceed to take the depositions of Joel Solomon, D. H. Solomon, J. V. Hinchman, H. W. Summers, R. B. Lounsend, L. W. Tubbs, N. Lathrop, Frank Street, H. C. Watkins, J. W. Coolidge, Wash Darlin, and others; said depositions to be used in evidence on the trial of a certain cause pending in said court, wherein Mills county is plaintiff and you are defendant, on the part of said plaintiff, and they will be taken on the day above mentioned, between the hours of 9 o'clock a. m. and six o'clock p. m., and will be continued from day to day, if not completed on that day.

Feb'ry 15th, 1865.

HALE AND HARVEY,
Attys. for Plaintiff.

179 STATE OF IOWA, *Des Moines County:*

I received this notice on the 20th day of February, 1865, and on the 21st day of Feb'ry, 1865, I served the same C. E. Perkins, acting superintendent of the B. & M. R. R. R. Company, by reading the same to him, and delivering to him a true copy, thereof, in the city of Burlington, Des Moines county, Iowa.

MERTAM HEISY, *Sheriff,*
Des Moines Co., Iowa.

Service	50
Copy	25
2 mileages	20
Postage	05
	$1 00

Paid by pl'ff att'ys.

180 Depositions of witnesses taken before H. A. Copeland, clerk of the District Court in and for Mills county, Iowa, at the clerk's office, in Glenwood, in said county, on Saturday, the 12th day of March, 1865, and completed on Monday, the 14th of March, A. D. 1865, in accordance with the attached notice, to be used in evidence in a suit pending in the District Court of same county, wherein Mills county, Iowa, is plaintiff and the Burlington and Missouri River Railroad Company is defendant, on the part of the plaintiff.

Joel Solomon, being produced, sworn, and examined, answers as follows:

Qus. 1st. What is your name, age, and place of residence, and how long have you resided there, and are you acquainted with the parties to this action?

Ans. My name is Joel Solomon; age, 64 years. I reside in Glenwood, Mills county, Iowa. I have resided there 8 or 9 years,
181 and I am acquainted with Mills county, and know the B. and M. R. R. R. Co. by reputation.

Ques. 2d. State where, if you know, the line of the Burlington and Missouri River Rail Road Co. was located through Mills county?

Ans. I do not know when the survey was made; but I was informed by some of the directors of the company that the line was adopted and definitely fixed by the board of directors of said company in the month of March or April, A. D. 1857. I think it was at an adjourned meeting of the board that the line was adopted, as I understood.

Ques. 3d. State whether it was understood by the citizens in this part of the State that the line was located in the fall of 1856.

Ans. It was generally understood that it was not located til the spring of 1857, in March or April, as before stated.

182 Ques. 4. State whether said railroad company or its agents did not hold out to the people after the survey was made the idea that the line was not permanently located, and that the location might depend to some extent on the local subscriptions to the stock of said railroad.

Ans. I do not know at what time the survey was made; but I do know that in the winter of 1856 and 1857 that I did, as an inducement was held out by some of the directors to citizens here to subscribe on the grounds that such subscription would effect the location of the road.

Ques. 5. State who held out such inducements and what they said, as near as you can remember.

Ans. Newman and Lathrop were here; and I think in the month of February, Thomas W. Newman, one of the directors, entered
183 into a contract with me for property at Platsmouth, for mere nominal figures, for which I executed a bond to him, binding myself to deed to the company upon the location of the road through Mills county, to terminate on the east bank of the Missouri river, opposite Plattsmouth.

Ques. 6th. State what he said to induce you to make that contract?

Ans. He stated that unless the people here donated pretty freely to the company they might be induced to change the rout to Bellview, which is some twelve miles north of Plattsmouth, leaving Glenwood off the line, as I understood it.

Ques. 7th. State whether Mills county made any donations to said company, to induce them to locate said road through or by Glenwood; and if so, state the particulars.

Ans. On the 17th of October, 1856, the county judge of Mills county executed a bond to the company, agreeing to donate
184 to the company, as an inducement to secure the location of the road by Glenwood, two blocks and six lots in said town.

Ques. 8th. State whether this now hand you is a true copy of said bond.

(A copy of said bond is here presented to the witness.)

Ans. It is. I have compared it with the original, as recorded in the recorder's office in Mills county, in book D, page 312.

Ques. 9th. How much are those lots estimated to be worth at that time?

Ans. Two thousand dollars, at least.

Ques. 10th. Has that property been conveyed by said county to said company?

Ans. It has not.

Ques. 12th. Would you know if such conveyance had been made?

Ans. I would, as I keep an abstract of letters in said county, and take an account of all conveyances of real estate.

185 J. SOLOMON.

William Street, of lawful age, being produced, sworn and examined, deposes as follows:

Ques. 1st. What is your name, age, and place of residence, and how long have you resided there?

Ans. My name is William Street; age, 38 years. I have resided in Mills county, Iowa, since 1853.

Ques. 2d. Did or did you not, see and talk with any of the directors or agents of the B. and M. R. R. R. Co. in the summer or fall of 1856, in regard to the construction and location of said road? and if so, give all the particulars?

Ans. I did; with agents and directors at different times during the fall and winter of 1856. In coversation with Newman and Hiberd and Wm. Thompson, they advanced the idea that the citizens of Mills Co. would have to subscribe liberally to secure the road through Mills county without a doubt, from the fact that
186 Newbraska city and Bellview, and other points, were making vigorous efforts to secure the road.

Ques. 3d. State whether or not you talked with any of the directors in the year 1857 in regard to the location of the time of said road; and if so, give all the particulars.

Ans. In the summer of 1857 Mr. Heberd stated positively, at various times, that the line of said road was not then permanently located, and held out to the citizens of Pacific City that they would

have to donate liberly in order to secure the road at their place, or else it would run down Key creek valley direct to Plattsmouth, leaving Pacific City three miles to the north.

WILLIAM STREET.

187 For want of time the farther taking of depositions in this cause is adjourned till next Monday morning at 9 o'clock a. m.

H. A. COPELAND, *Clerk.*

MONDAY MORNING,
March 13th, 1865, 9 *o'clock a. m.*

I proceeded, as per adjournment, to [to] take farther deposition in this case.

H. A. COPELAND, *Clerk.*

D. H. Solomon, being produced, sworn, and examined, deposes as follows:

Ques. 1st. What is your name, age, and place of residence, and are you acquainted with the parties to this action?

Ans. My name is D. H. Solomon; age 37 years; I reside in Glenwood, Mills county, Iowa; I have known of the existance of both the parties for a number of years.

188 Ques. 2d. How long have you resided in Mills county, and what is your profession?

Ans. I have resided in Mills county about eleven years; I am an attorney-at-law.

Ques. 3d. State when, if you know the line of the Burlington and Missouri River Rail Road was definitely located through Mills county; and what you know about it.

Ans. In regard to that I have no personal actual knowledge whatever, unless it be from my recolection of acts and assertions made and done by officers, agents, and employers of that company in the years of 1856 and 1857. I was at one time connected with the company in the capacity of agent to take subscriptions for and collect money to locate their line of road through this tier of counties. At that time I was led to understand by the members of the board

189 of directors of that company that it was their purpose to survey and locate their line of road through to the Missouri river, passing as nearly as practicable through the several county seats of this tier of counties in which Mills is situated, and was instructed so to represent the matter to the people along that line, and did so, and by this means obtained a large subscription and collection. I never heard of any doubt in regard their intention to follow that line until some time in the fall cr winter of 1856. I did not hear this personaly to any great extent; am not sure that I did from agents connected with that company. But I know of their being through this country in the fall and winter of 1856 and 1857, and holding meetings here and at places above and below this, in which they represented and told the people that it was doubtful where the

190 road would eventually run, whether it would run south through Sidney or through this place, or north of here; and representing to the people on these several lines that in order to secure the location they must be liberal and subscribe largely; by this means they did secure, as I was informed and believe, large donations at these points. I have no actual personal knowledge of these meetings myself, and what was done at them, as I was absent from home at the time. But I was informed of them by letter during my absance, and what I heard generaly from the people when I get home in the spring of 1857, when I found the public mind entirely unsettled as to where the road would eventually run. This continued to be the case until the forepart of the month of April, 1857; I think it was
191 about the 6th or 7th day. Mr. David Remick came through, as he said, direct [direct] from Berlington, and stated in my presence and others that the Burlington and Missouri Railroad Company, at a meeting of the board or stockholders, which had just adjourned, that company had made, finaly, permenant location of their road through this tier of counties on the line that had been surveyed by them. This Mr. Remick was at that time, and as I understood it, and for some time prior thereto, had been connected with that company as an agent or employee. From this time on there was no doubt about the location. Prior to my going away from home, which was about Christmas, 1856, I did hear doubts expressed myself, personally, by the agents and employees, or those whom I understood to be agents and employees of the company, and about the time that
192 the company were running and surveying a line south of this through Sidney, as I understood and believe.

Ques. 4th. State when the announcement of the final location of said road was first made in Mills county, and by whom?

Ans. The first I heard of it was on the 6th or 7th of April, 1857, and by David Remick, same person above refered to.

Ques. 5th. State your means of knowledge, and how it is that you recollect those matters so distinctly.

Ans. The fact and its date is firmly fixt on my recollection, and in this way, my previous connection with the Railroad Co. having enabled me to know the point or something near it of their proposed termination on the Missouri river somewhat in advance of the
193 other people, I made some little investment, based upon that knowledge, and believe for that reason, during all this time, uncertainly I felt a deep interest in the matter, and when the announcement was made, it made an impression. The date has often and frequently been refered to by me in questions that have arisen, and I have often rembered and spoken of it as having been on the 7th; besids there was a transfer of property made that I remember to have been made at that time, and on reference to the record, I find that transfer bears date the 6th. These are the facts that enable me to be so confident about the dates.

Ques. 6. Did you understand from the officers or agents of the company, that the line was located prior to the first of April, 1857?

194 Ans. No, I did not; I understood from all of them that it

was their purpose to make the location through Mills county, at Glenwood, until some time in the fall of 1856, and about the time, and after, they had made their survey.

Ques. 7. Did you ever understand from any person that the line was definitely fixed prior to the first of April, 1857?

Ans. I did not.

Ques. 8th. Was it not understood through this county and other places along the line of the road, so far as your knowledge extended, that the line was not definitely fixt prior to the 1st of April, 1857?

Ans. It was so understood, as far as I knew, by the people, and owing, I think, to the causes I have stated above.

D. H. SOLOMON.

Fee bill:

J. Solomon, (witness)	$1 00
D. H. Solomon, "	1 00
Wm. Street, "	1 00
H. A. Copland, (dep.)	5 00

195 *Bond.—(Exhibit "A.")*

I, O. N. Tyson, county judge of Mills county, Iowa, for the sum of five dollars, and for the further consideration of inducing the Burlington and Missouri River Railroad Company to locate permanently their road through the said county of Mills, as near as practicable to the county seat of said county, I, as county judge aforesaid, for and in behalf of said county, hereby sell and donate to said company the following real estate owned by said county, to wit: out-lot eighteen, (18), three in block 70, two in block 68, block (59,) block 25, in the town of Glenwood, according to the recorded plot of said town; said sale [sale] and donation is upon the condition that said road is located through said county as aforesaid, and a deed to be made for
196 said land and lots upon the location of said road, if demanded, within six months from date.

Given under my hand and seal of said county, at Glenwood, this 17th day of October, 1856.

[SEAL.]

O. N. LYSON,
County Judge of Miller County, Iowa.

STATE OF IOWA, *Miller County, ss:*

I, H. A. Copeland, clerk of the District Court in and for said county, do hereby certify that the foregoing depositions of Joel Solomons and William Streets and D. H. Solomons were taken before me, at my office, in said county, in person, of the foregoing and attached notice; that of Joel Solomons and William Streets on Satuerday, the eleventh day of March, 1865, between the hours of 9 o'clock a. m. and six o'clock p. m. of said day and date, and
197 that of D. H. Solomon on Monday, the 14th day of March, A. D. 1865, between the hours of 9 o'clock a. m. and six o'clock of said day; that the same was reduced to writing by me; and

after the same had been by me carefully read over to the said deponents by me, were subscribed and sworn to by the said deponents severally at the times last above refered to; and I further certify that the paper hereto attached, and marked Exhibit "A," is the identical paper handed to witness, Joel Solomon, and refered to in his deposition.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this 14th day of March, A. D. 1865.

[SEAL.] H. A. COPELAND, *Clerk.*

198 To the hon. county judge of Mills County, Iowa:

In pursuance of an act of the general assembly of the State of Iowa, and an order of the County Court of Mills county, I have proceeded to select the following lists of lands as being swamp and overflowed lands in Mills county. The rule by which to determine the quality of each lot was to take the smallest legal subdivision, viz: 40 acre lots and fractions, and if more than one half of such tract was swamp or subject to overflow, I selected the whole as swamp lands. So far as relates to the depths of swamp or overflow, it was not in my power to ascertain with certainty, but selected with a view of its being swampy or overflowed.

GLENWOOD, *December* 31*st*, 1863.

OLIVER N. TYSON, *Surveyor.*

199 A list of the swamp and overflowed lands lying in the county of Mills, State of Iowa, selected and returned by O. N. Tyson, county surveyor of said county, under the authority of the county judge of said county, and according to an act of the general assembly of the State of Iowa, approved January 13th, 1853.

Swamp lands, Mills county, Iowa.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
200 NE qr NE qr	5	72	40	25.56	
NW qr NE qr	do	do	do	25.56	Swampy prairie.
SW qr NE qr	do	do	do	40.00	
SE qr NW qr	do	do	do	40.00	
NW qr NW qr	do	do	do	26.94	Swampy prairie.
NE qr NW qr	do	do	do	26.94	Do Do
SW qr SW qr	do	do	do	40.00	Do Do
NE qr NE qr	6	do	do	27.07	Swampy.
NW qr NW qr	do	do	do	27.07	Same.
SW qr NE qr	do	do	do	40.00	Overflowed.
NE qr NW qr	do	do	do	21.65	Swampy.
NW qr NW qr	do	do	do	21.65	Overflowed.
SE qr NW qr	do	do	do	40.00	Same.
SE qr NW qr	do	do	do	36.41	Same.
SW qr SW qr	do	do	do	40.00	Same.
SE qr SW qr	do	do	do	40.00	Same.
NE qr SW qr	do	do	do	37.04	Same.
NW qr SE qr	do	40	do	40.00	Swampy.
SW qr SE qr	do	do	do	40.00	Same.
SE qr SE qr	do	do	do	40.00	Same.
NW qr NW qr	7	do	do	38.22	Overflowed.
SW qr NW qr	do	do	do	39.09	Same.
NW qr SW qr	do	do	do	39.85	Same.
SW fr qr and SW qr	do	do	do	40,62	Same.
E half SW qr	do	do	do	80,00	Same.
E half SW qr	do	do	do	80.00	Same.
NE qr	do	do	do	160.00	Swampy.
201 E half SE qr	do	do	do	80.00	Same.
W half SE	do	do	do	80.00	Same.
W half	8	do	do	320.00	Swampy.
NW qr NW qr	17	do	do	40.00	Lake.
NE qr NE qr	18	do	do	40.00	do
NW fr qr	18	do	do	160.00	Swampy.
E half SW qr	do	do	do	80.00	Same.
NW qr SE qr	do	do	do	40.00	Same.
E half NW	17	do	do	80.00	Same.
SW qr NW qr	do	do	do	40.00	Same.
W half NE qr	18	do	do	80.00	Same.
SE qr NE qr	do	do	do	40.00	Same.
SE qr	do	do	do	160.00	Same.
E half NW qr	do	do	do	80.00	Same.
E half SW qr	do	do	do	80.00	Overflowed.
NW qr NW qr	do	do	do	41.03	Same.
SW qr NW qr	do	do	do	41.09	Same.
NW qr SW qr	do	do	do	41.14	Same.
SW qr SW qr	do	do	do	41.20	Same.
NW qr NW qr	19	do	do	41.09	Same.
SW qr NW qr	do	do	do	40.84	Same.
E half NW qr	do	do	do	80.00	Same.
NE qr	do	do	do	160.00	Same.
NW qr NE qr	1	73	do	35.20	Overflowed
NE qr NW qr	do	do	do	35.23	Same.
SW qr SE qr	do	do	do	40.00	Same.
SE qr NW qr	do	do	do	40.00	Same.
SW qr	do	do	do	160.00	Same.
NW qr NW qr	3	do	do	35.85	Same.
SW qr NW qr	do	do	do	40.00	Same.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
W half SW qr	3	73	40	80.00	Same.
NE fr qr NE qr	4	do	do	35.94	Same.
202 NW qr NE qr	4	73	40	36.03	Swampy.
S half, NE qr	do	do	do	80.00	
SE qr	do	do	do	160.00	
All of	9	do	do	640.00	Swampy and overflowed.
W half of	10	do	do	320.00	Same.
S half SE qr	11	do	do	80.00	Same.
NE half SE qr	do	do	do	40.00	Same.
W half	12	do	do	320.00	Same.
NE qr	14	do	do	160.00	Same.
NW qr SE qr	do	do	do	40.00	Same.
S half NW qr	do	do	do	80.00	Same.
SW qr	do	do	do	160.00	Same.
W half NE qr	15	do	do	80.00	Same.
SE qr NE qr	do	do	do	40.00	Same.
NW qr	do	do	do	160.00	Same.
SW qr	do	do	do	160.00	Same.
SE qr	do	do	do	160.00	Same.
W half SE qr	17	do	do	80.00	Same.
SE qr SE qr	do	do	do	40.00	Same.
E half SW qr	do	do	do	80.00	Swampy.
NE qr	20	do	do	160.00	Overflowed.
NE qr NW qr	do	do	do	40.00	Swampy.
SE qr	do	do	do	160.00	Overflowed.
All of	21	do	do	640.00	Overflowed and Swampy.
W half	22	do	do	320.00	
NE qr	do	do	do	160.00	
W half SE qr	do	do	do	80.00	
N half	28	do	do	320.00	Marshy.
W half SE qr	do	do	do	80.00	Same.
N half SW qr	do	do	do	80.00	Same.
203 All of	29	73	40	640.00	Swampy and overflowed.
SE qr	30	do	do	160.00	Same.
SE qr SW qr	do	do	do	40.00	Swampy.
SW fr qr SW qr	30	73	40	34.58	Do.
W half NE qr	31	do	40	80.00	Do.
NE qr NE qr	do	do	do	40.00	Overflowed.
E half NW qr	do	do	do	80.00	Swampy.
SW qr NW qr	do	do	do	34.96	Same.
NW qr NW qr	do	do	do	34.65	Same.
SE qr	do	do	do	160.00	Overflowed and swampy.
E half SE qr	do	do	do	80.00	Same.
NW qr SW qr	do	do	do	35.26	Swampy.
SW qr SW qr	do	do	do	35.57	Overflowed.
N fr half, NE qr	2	71	41	57.21	Same.
N fr NW qr	do	do	do	56.81	Timber.
S half NE qr	do	do	do	80.00	Overflowed.
S half NW qr	do	do	do	80.00	Same.
W half SE qr	do	do	do	80.00	Same.
NE qr SE qr	do	do	do	40.00	Same.
SW qr	do	do	do	160.00	Overflowed.
SE qr NE qr	3	do	do	40.00	Same.
E half SE qr	do	do	do	80.00	Same.
SW qr SE qr	do	do	do	40.00	Same.
N fr half NE qr	6	do	do	53.30	Same.
S half SW qr	do	do	do	80.00	Same.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
SE qr NE qr	6	71	4	40.00	Same.
E half SE qr	do	do	do	80.00	Swampy.
E half SW qr	8	do	do	80.00	Overflowed.
E half SW qr	do	do	do	80.00	Scattering timber.
NE qr	do	do	do	160.00	Swampy and overflowed.
204 SE qr	8	71	41	160.00	Swampy and overflowed.
All of	9	do	do	640.00	Marshy and overflowed.
All of	10	do	do	640.00	Do.
NW qr of	11	do	do	160.00	Do.
NW qr NE qr	do	do	do	40.00	Swampy.
W half SW qr	do	do	do	80.00	Same.
W half NW qr	14	do	do	80.00	Same.
All	15	do	do	640.00	Same.
NE qr NE	17	do	do	40.00	Overflowed.
All	21	do	do	640.00	Some timber swampy.
W half	22	do	do	320.00	Swampy.
W half NE qr	do	do	do	80.00	Same.
E half NE qr	do	do	do	80.00	Do.
W half SE qr	do	do	do	80.00	Do.
W half	27	do	do	320.00	Do.
W half NE qr	do	do	do	80.00	Do.
W half SE qr	do	do	do	80.00	Do.
All of	28	do	do	640.00	Scattering timber, overflowed
E half	29	do	do	320.00	and swampy.
E half NW qr	do	do	do	80.00	Swampy.
SW qr NW qr	do	do	do	40.00	Do.
E half SW qr	do	do	do	80.00	Do.
NW qr SW qr	do	do	do	40.00	Do.
SE qr SE qr	31	do	do	40.00	Do.
SW qr NE qr	32	do	do	40.00	Do.
E half NW qr	do	do	do	80.00	Overflowed
NE qr	do	do	do	160.00	and
SE qr	do	do	do	160.00	Swampy.
SW qr	do	do	do	160.00	
NW qr	33	do	do	160.00	Overflowed.
205 NE qr	33	71	41	160.00	Overflowed.
SE qr	do	do	do	160.00	Do.
SW qr	do	do	do	160.00	Swampy.
SW qr	do	do	do	160.00	Overflowed.
NW qr	34	do	do	160.00	Swampy.
SW qr	do	do	do	160.00	Do.
SE qr	1	72	do	160.00	Marshy.
E half SW qr	do	do	do	80.00	Do.
E half NE qr	12	do	do	80.00	Do.
E half SE qr	do	do	do	80.00	Overflowed.
E half	13	do	do	320.00	Timber and overflowed.
SW qr	do	do	do	160.00	Do. do.
S half SE qr	14	do	do	80.00	Do. do.
E half SW qr	do	do	do	80.00	Swampy.
NW qr NW qr	18	do	do	39.72	Timber and overflowed.
SW qr NW qr	do	do	do	39.97	Do. do.
NW qr SW qr	do	do	do	40.22	Do. do.
SW qr SW qr	do	do	do	40.47	Do. do.
NW qr NW qr	19	do	do	40.69	Do. do.
SW qr NW qr	do	do	do	40.87	Do. do.
E half NW qr	do	do	do	80.00	Do. do.
E half SW qr	do	do	do	80.00	Do. do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of sections.	Sec.	Town.	R'ng.	Acres.	Remarks.
NW qr SW qr	19	72	41	41.04	Timber and overflowed.
SW qr SE qr	do	do	do	40.00	Do. do.
E half NW qr	23	do	do	80.00	Do. do.
NE qr	do	do	do	160.00	Do. do.
SE qr	do	do	do	160.00	Do. do.
SW qr	do	do	do	160.00	Do. do.
S half SE qr	22	do	do	80.00	Swampy.
All of	24	do	do	640.00	Same.
206 NE qr	25	72	41	160.00	Some timber
W half	25	do	do	320.00	and swampy.
All of	26	do	do	640.00	Some timber and swampy.
NE qr	27	do	do	160.00	Swampy.
E half of SE qr	27	do	do	80.00	Swampy.
SW qr	29	do	do	160.00	Timber and overflowed.
NE qr	30	do	do	160.00	Do do.
E half SE qr	do	do	do	160.00	Overflowed, swampy.
NW qr NE qr	do	do	do	40.00	Overflowed.
W half NW qr	32	do	do	80.00	Do.
W half SW qr	do	do	do	80.00	Some timber.
SE qr NW qr	do	do	do	40.00	Swampy.
NE qr SW qr	do	do	do	40.00	Do.
NE qr	34	do	do	160.00	Prairie and overflowed.
E half NW qr	do	do	do	80.00	Swampy.
NW qr NW qr	do	do	do	40.00	Do.
All of	35	do	do	640.00	Some timber and overflowed.
NW qr	36	do	do	160.00	Prairie, swampy.
NE qr NW qr	6	73	do	38.60	Overflowed.
NW qr NW qr	6	do	do	37.73	Swampy.
SW qr SW qr	19	do	do	35.17	Do.
NW qr NW qr	30	do	do	35.03	Do.
NW qr SW qr	31	do	do	38.45	Timber and overflowed.
SW qr SW qr	31	do	do	38.95	Do. do.
N fr half NE qr	1	72	42	62.18	Swampy.
S half NE qr	1	do	do	80.00	Do.
E half SE qr	1	do	do	80.00	Timber and overflowed
E half NE qr	12	do	do	80.00	Do do.
207 SE qr	12	do	do	160.00	Do do.
N fr. half NE qr	6	do	do	62.64	Overflowed.
S half NE qr	do	do	do	80.00	Do.
W half SE qr	do	do	do	80.00	Do.
NE qr SE qr	do	do	do	40.00	Do.
SE qr WS qr	do	do	do	40.00	Do.
NE qr NW fr qr	7	do	do	35.68	Do.
NE fr qr NE qr	1	73	do	35.27	Swampy, prairie.
NW qr NE qr	do	do	do	34.80	Do do.
S half NE qr	do	do	do	80.00	Do do.
NE qr SE qr	do	do	do	40.00	Overflowed.
NW qr SE qr	do	do	do	40.00	Do.
SW qr	do	do	do	160.00	Swampy.
NE fr qr NE qr	5	do	do	37.14	Overflowed.
NW qr NE qr	do	do	do	36.86	Do.
S half NE qr	do	do	do	80.00	Do.
W half SE qr	do	do	do	80.00	Do.
E half SW qr	do	do	do	80.00	Do.
W half SE qr	8	do	do	80.00	Swampy.

Swawp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
E half SW qr	8	73	42	80.00	Swampy.
W half SW qr	do	do	do	80.00	Do.
E half NE qr	11	do	do	80.00	Do.
E half SE qr	11	do	do	80.00	
W half	12	do	do	320.00	Swampy and overflowed.
W half NW qr	13	do	do	80.00	Overflowed.
W half SW qr	13	do	do	80.00	Same.
NE qr	14	do	do	160.00	Swampy.
NE qr SE qr	14	do	do	40.00	Overflowed.
W half NW half	17	do	do	80.00	Same.
208 E half	18	72	42	320.00	Overflowed.
E half SW qr	18	do	do	80.00	Swampy.
W half NE qr	19	do	do	80.00	Overflowed.
E half NW qr	do	do	do	80.00	Do
E half SW qr	do	do	do	80.00	Same.
W half SE qr	do	do	do	80 00	Same.
W half	24	do	do	320.00	Same.
NW qr SE qr	do	do	do	40.00	Same.
S half SE qr	do	do	do	80.00	Same.
N half NE qr	25	do	do	80.00	Same.
W half NE qr	30	do	do	80.00	Swampy.
E half NW qr	do	do	do	80.00	Overflowed.
NW qr NW qr fr	do	do	do	35.22	Do.
SW qr NW qr	do	do	do	35.66	Do.
NW fr qr SW qr	do	do	do	36.10	Do.
SW fr qr SW qr	do	do	do	36.54	Do.
W half SE qr	do	do	do	80.00	Swampy.
E half N W qr	31	do	do	80.00	Overflowed.
W half NE qr	do	do	do	80.00	Swampy.
W half SE qr	do	do	do	80.00	Overflowed.
FE qr	36	do	do	160.00	Swampy.
E half SE qr	do	do	do	80.00	Overflowed.
SE qr SE qr	25	do	do	40.00	Same.
N fr half NW qr	1	71	43	39.46	Swampy.
S half NW qr	do	do	do	80.00	Do.
W half SE qr	do	do	do	80.00	Do.
All of	2	do	do	595.12	Do.
All of	3	do	do	591.24	Do.
All of	4	do	do	581.50	Do.
209 N half	5	do	43	263.50	Overflowed.
SE qr	do	do	do	160.00	"
N half SW qr	do	do	do	80.00	"
NE qr	6	do	do	131.20	Timber and overflowed.
N fr half NW qr	do	do	do	51.20	Do. do.
SE qr NW qr	do	do	do	40.00	Do. do.
NW qr SE qr	do	do	do	40.00	Do. do.
E half SE qr	do	do	do	80.00	Do. do.
Tracts 1, 2, and 3	do	do	do	128.55	Do. do.
Lots 1, 2, 3, and 4	7	do	do	224.41	Do. do.
E half NE qr	do	do	do	80.00	Do. do.
E half SE qr	do	do	do	80.00	Do. do.
S half NW qr	8	do	do	80.00	Prairie, overflowed.
SW qr	do	do	do	160.00	Do.
All of E half	do	do	do	320.00	Do.
All of	9	do	do	640.00	Do.
NW qr	10	do	do	160.00	Do.
W half SW qr	do	do	do	80.00	Swampy and overflowed.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
NE qr SW qr	10	71	43	40.00	Swampy and overflowed.
NW qr SE qr	do	do	do	40.00	Do.
NE qr NE qr	do	do	do	40.00	Do.
W half NE qr	do	do	do	80.00	Do.
N half NW qr	11	do	do	80.00	Swampy.
NE qr NE qr	do	do	do	40.00	Do.
NW qr NW qr	12	do	do	40.00	Do.
NW qr NW qr	15	do	do	40.00	Do.
All of	17	do	do	640.00	Swampy and overflowed.
E half NE qr	18	do	do	80.00	Overflowed.
210 E half SE q.	18	71	43	80	Overflowed.
Lots 1, 2, 3, and 4	do	do	do	80	Same and timber.
Lots 1, 2, 3, and 4	19	do	do	199.22	Same.
E half NE qr	do	do	do	80	Timber and overflowed.
E half SE qr	do	do	do	80	Do.
All of	20	do	do	640	Prairie and overflowed.
W half	21	do	do	320	Same.
W half NE qr	do	do	do	80	Swampy.
SW qr NW qr	27	do	do	40	Do.
W half SW qr	do	do	do	80	Do.
SE qr SW qr	do	do	do	40	Do.
W half	28	do	do	320	Do.
SE qr	do	do	do	160	Do.
W half NE qr	do	do	do	80	Do.
SE qr NE qr	do	do	do	40	Do.
All of	29	do	do	640	Overflowed.
E half NE qr	30	do	do	80	Timber and overflowed.
Lots 8, 2, 2, and 4	do	do	do	162.24	Same.
NE qr NW qr	32	do	do	40	Same.
NE qr	do	do	do	160	Same.
E half SE qr	do	do	do	80	Same.
Lots 1, 2, 3, and 4	do	do	do	194.58	Do.
All of	33	do	do	640	Swampy.
W half	34	do	do	320	Lake.
SE qr	do	do	do	160	Do.
SW NE qr	do	do	do	40	Do.
W half SW qr	35	do	do	80	Do.
SE qr SW qr	do	do	do	40	Do.
SW qr SE qr	do	do	do	40	Do.
NW qr NE qr	5	72	do	36.86	Swampy prairie.
211 NE qr NW qr	do	do	do	36.59	Do.
NW qr NW qr.	do	do	do	36.31	Do.
SW qr NE qr	do	do	do	40	Do.
S half NW qr	do	do	do	80	Do.
SE qr SE qr	do	do	do	40	Do.
W half SE qr	do	do	do	80	Do.
SW qr	do	do	do	160	Do.
NE qr NE qr	6	do	do	36.88	Do.
NW qr NE qr	do	do	do	38.80	Do.
NE qr NW qr	do	do	do	39.72	Do.
NW qr NW qr	do	do	do	39.07	Do.
SW qr NW qr.	do	do	do	42.62	Swampy.
SE qr NW qr	do	do	do	40	Do.
S half NE qr	do	do	do	80	Do.
SE qr	do	do	do	160	Do.
E half SW qr	do	do	do	80	Do.
NW qr SW qr	do	do	do	42.33	Do.
SW qr SW qr	do	do	do	42.04	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
NE qr	7	72	43	160	Swampy.
E half NW qr	do	do	42	80	Do.
W half NW qr	do	do	do	64. 57	Do.
W half SW qr	do	do	do	63. 79	Do.
E half SW qr	do	do	do	80	Overflowed.
SE qr	do	do	do	160	Do.
All of	8	do	do	640	Do.
SW qr NW qr	9	do	43	40	Swampy.
W half SW qr.	do	do	do	80	Do.
All of	17	do	do	640	Do.
All of	18	do	do	642. 28	Do.
All of	19	do	do	640. 12	Timber and overflowed.
212 All of	20	do	do	640	Prairie and overflowed.
All of	21	do	do	640	Do.
SW qr	22	do	do	160	Do.
W half SE qr	do	do	do	80	Do.
W half NW qr	do	do	do	80	Do.
SE qr NW qr	do	do	do	40	Do.
W half SW qr.	23	do	do	80	Do.
SE qr SW qr	do	do	do	40	Do.
E half NW qr	do	do	do	80	Swamp and overflowed.
NW qr NE qr	do	do	do	40	Do.
W half SE qr	12	do	do	80	Overflowed.
NE qr SE qr	do	do	do	40	Do.
W half SW qr	15	do	do	80	Do.
E half SE qr	14	do	do	80	Do.
W half SE qr	26	do	do	80	Do.
SE qr SE qr	do	do	do	40	Do.
SW qr NE qr	do	do	do	40	Swampy.
W half	do	do	do	320	Do.
All of	27	do	do	640	Do.
All of	28	do	do	640	Do.
All of	29	do	do	640	Do.
All of	30	do	do	638. 76	Do.
All of	31	do	do	639. 20	Timber and swampy.
All of	32	do	do	640	Swampy.
All of	33	do	do	640	Do.
All of	34	do	do	640	Do.
All of	35	do	do	640	Do.
W half SW qr.	36	do	do	80	Do
213 NE qr NE qr	5	73	43	41. 83	Swampy.
NW qr NE qr	do	do	do	41. 48	Do
NE qr NW qr	do	do	do	41. 13	Do
NW qr NW qr	do	do	do	40. 78	Do
S half NE qr	do	do	do	80. 00	Do
S half NW qr	do	do	do	80. 00	Do
SW qr	do	do	do	160. 00	Do
W half SE qr	do	do	do	80. 00	Do
NE qr SE qr	do	do	do	41. 00	Do
NE qr NE qr	6	do	do	40. 58	Do
NW qr NE qr	do	do	do	40. 54	Do
S half NE qr	do	do	do	80. 01	Do
NE qr NW qr	do	do	do	40. 50	Do
NW qr NW qr	do	do	do	37. 08	Do
SW qr NW qr	do	do	do	36. 58	Do
SE qr NW qr	do	do	do	40. 00	Do.
SE qr	do	do	do	160. 00	Do
E half SW qr	do	do	do	80. 00	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
NW qr SW qr	6	73	43	36.51	Swampy.
SW qr SW qr	do	do	do	36.44	Do.
NE qr	7	do	do	160.00	Do.
E half NW qr	do	do	do	80.00	Overflowed.
NW qr NW qr	do	do	do	36.14	Do.
SW qr NW qr	do	do	do	40.87	Do.
NW qr SW qr	do	do	do	39.59	Do.
E half SW qr	do	do	do	80.00	Do.
SE qr	do	do	do	160.00	Do.
NW qr	8	do	do	160.00	Do.
SW qr	do	do	do	160.00	Do.
NW qr	17	do	do	160.00	Do.
214 SW qr	17	73	43	160.00	Overflowed.
NE qr	18	do	do	160.00	Do.
E half NW qr	do	do	do	80.00	Do.
NW qr NW qr	18	73	43	41.47	Do.
SW q NW qr	do	do	do	41.39	Do.
NW qr SW qr	do	do	do	41.32	Do.
NE qr SW qr	do	qo	do	40.00	Do.
N half SE qr	do	do	do	80.00	Do.
All of	19	do	do	640.00	Do.
SE qr SE qr	18	do	do	40.00	Do.
W half	20	do	do	320.00	Do.
W half NW qr	29	do	do	80.00	Do.
All of	30	do	do	648.00	Swampy and flowed.
All of	31	do	do	649.98	Do.
SW qr	32	do	do	160.00	Do.
W half NW qr	do	do	do	80.00	Do.
SE qr NW qr	do	do	do	40.00	Do.
SE qr	1	72	44	160.00	Overflowed.
S half NE	1	do	do	80.00	Same.
N half NE qr	do	do	do	62.08	Same.
Lots 1, 2, 3, and 4	do	do	do	240.81	Do.
Lots 1 and 2	11	do	do	44.88	Do.
E half	12	do	do	320.00	Do.
SW qr	do	do	do	160.00	Do.
E half NW qr	do	do	do	80.00	Do.
SW qr NW qr	do	do	do	40.00	Do.
Lot 1	do	do	do	38.60	Do.
All of	13	do	do	640.00	Overflowed and swampy.
Lots 1, 2, and 3	14	do	do	104.21	Do.
215 SE qr	23	72	44	160.00	Timber and overflowed.
SE qr NE qr	do	do	do	40.00	Do.
Lots 1, 2, 3, and 4	do	do	do	223.37	Do.
All of	24	do	do	640.00	Do.
All of	25	do	do	640.00	Do.
E half NE qr	26	do	do	80.00	Do.
NE qr NE qr	do	do	do	40.00	Do.
Lots 1, 2, 3, 3	do	do	do	176.50	Do.
NE qr	36	do	do	160.00	Do.
E half SE qr	do	do	do	80.00	Do.
NE qr NW qr	do	do	do	40.00	Do.
Lots 1, 2, 3, 4	do	do	do	146.77	Do.
NE qr NE qr	1	73	44	40.37	Timber and overflowed.
NW qr NE qr	do	do	do	40.23	Do.
NE qr NW qr	do	do	do	40.08	Swampy.
NW qr NW qr	do	do	do	39.94	Do.

Swamp lands, Mills county, Iowa.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
S half NE qr	1	73	44	80.00	Overflowed.
S half NW qr	do	do	do	80.00	Do.
S half	do	do	do	320.00	Do.
NE qr NE qr	2	do	do	39.86	Do.
NW qr NE qr	do	do	do	39.86	Do.
S half NE qr	do	do	do	80.00	Do.
E half SE qr	do	do	do	80.00	Do.
Lots 1, 2, 3, and 4	do	do	do	200.32	Do.
Lots 1 and 2	11	do	do	118.61	Do.
E half	12	do	do	320.00	Do.
NW qr	do	do	do	160.00	Do.
N half SW qr	do	do	do	80.00	Do.
SE qr SW qr	do	do	do	40.00	Do.
216 Lot 1	12	73	44	37.10	Overflowed.
NE qr	13	do	do	160.00	Do.
E half SE qr	do	do	do	80.00	Do.
Lots 1, 2, 3, and 4	do	do	do	148.37	Do.
E half	24	do	do	320.00	Swampy.
E half SW qr	do	do	do	80.00	Do.
SW qr SW qr	do	do	do	40.00	Do.
Lots 1, 2, and 3	do	do	do	130.92	Do.
Lots 1, 2, and 3	23	do	do	124.85	Do.
E half	26	do	do	320.00	Do.
SW qr	do	do	do	160.00	Do.
SE qr NW qr	do	do	do	40.00	Do.
Lots 1 and 2	do	do	do	78.00	Do.
Lot 1	27	do	do	12.60	Do.
S half	25	do	do	320.00	Do.
E half SE qr	do	do	do	80.00	Do.
SE qr SW qr	do	do	do	40.00	Do.
W half SW qr	do	do	do	80.00	Do.
Lot 1	34	do	do	3.70	Do.
NE qr	35	do	do	160.00	Do.
NE qr SE qr	do	do	do	40.00	Do.
NE qr NW qr	do	do	do	40.00	Do.
Lots 1, 2, 3, and 4	do	do	do	183.00	Do.
All of	36	do	do	640.00	Do.

217 I, Oliver N. Tyson, county surveyor of Mills county, State of Iowa, do solemnly swear that I understand and have examined the lines bounding the quarter quarter section of the tracts of land particularly designated in the lists hereunto affixed, and I do further solemnly swear that all lands designated in said lists, and each qr. quarter are swamp and overflowed lands, and of the character embraced by the law of Congress, approved Sept. 28th, 1850.

Approved Sept. 28th, 1850.

OLIVER N. TYSON,
County Surveyor of Mills Connty, Iowa.

Sworn to and subscribed by said Oliver N. Tyson before me, at my office, in the town of Glenwood and county of Mills, this 21st day of June, 1854.

Witness:

[SEAL.] HIRAM P. BENNET,
Co. Judge of Mills Co., Iowa.

With the seal of said county affixed.

218 SECRETARY'S OFFICE,
Iowa City, Feb. 1st, 1854.

I certify the foregoing to be a list of swamp lands selected in the county of Mills, in the State of Iowa, by O. N. Tyson, State agent, and by him reported to the county judge of said Mills county, and reported to this office by said county judge. And I herewith report the same to the surveyor general of the United States for the States of Wisconsin and Iowa and Territory of Minnesota.

GEO. W. McCLEARY, *Sec'y of State.*

Hon. W. LEWIS, *Surveyor General.*

219 The attached lists and affidavit, corrected by O. N. Tyson, and sworn to before me the 17th day of April, A. D. 1854.

Witness my hand and seal of Mills county, Iowa, at my office, in Glenwood, the date above written.

HIRAM P. BENNET, *County Judge.*

SURVEYOR GENERAL'S OFFICE,
Dubuque, 16th July, 1864.

I certify that the above list is a true copy of the list on file in this office of the swamp and overflowed lands in Mills county, Iowa, as selected by Oliver N. Tyson, esq., and reported to this office by the then secretary of state for Iowa.

HENRY A. WILTSE, *Surveyor General.*

{ 16 July st., 1864. H. A. W. Sur. General. }

Endorsed: Filed April 18th, 1865. H. A. Copeland.

220 GENERAL LAND OFFICE, *April 6th*, 1865.

I, Jos. S. Wilson. acting commissioner of the General Land Office, do hereby certify that the annexed copies numbered from 1 to 14 inclusive, are true and literal exemplifications from the files and records of this office.

In testimony whereof, I have hereto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] JOS. S. WILSON,
Acting Commissioner of the General Land Office.

(No. 1.)

GENERAL LAND OFFICE, *28th May*, 1861.

SIR: At the request of W. T. Steiger, esq'r, of this city, I enclose copies of correspondence Nos. 1 to 14, inclusive, relative to the withdrawal of lands in the Council Bluffs district, Iowa, in view of the act of Congress of the 15 May, 1856, granting lands to the State of Iowa, to aid in the construction of the Burlington and Missouri River Railroad, to be used in the reinvestigation of certain peremp-
221 tion claims ordered at said office, by our instructions of the 15th March last.

Respectfully yours,

J. W. EDMONDS, *Com'r.*

CHARLES E. PERKINS,
Ass't Treas. Burlington & Mo. R. R'd Co., Burlington, Iowa.

(No. 2.)

Notice No. 557, of withdrawal of lands in Iowa.

In pursuance of an act approved 15th May, "making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," instructions have been issued from this office withdrawing from market, until further orders, all the lands in that State, except those situated in the following-named districts, which are still open to purchasers for affecting sales and locations, viz.:

Office at Dacorrah, all the lands.

Do. at Ft. Dodge, all the lands north of the line between townships 92 and 93.

Do. at Sioux city, all the lands north of the line between townships 91 and 92.

Given under my hand at the General Land Office, at the city of Washington, this 21st day of May, 1856.

THOS. A. HENDRICKS, *Commissioner.*

222 [Copy No. 2. By telegraph.]

GENERAL LAND OFFICE, *May* 10*th*, 1856.

REG'S AND REC'R, *Council Bluffs, Iowa:*

You will suspend from sale or location all the lands in your district until further orders. Acknowledge the receipt of this dispatch by telegraph and mail.

THOS. A. HENDRICKS, *Commissioner.*

[Copy No. 3.]

LAND OFFICE, COUNCIL BLUFFS, *May* 31*st*, 1856.

SIR: Believing that orders for closing this office have been transmitted, and that through some cause have been delayed or lost, I have taken the responsibility of closing this office against private entry until I shall receive further instructions from the department. This office was closed at ¼ past 10 o'clock this day. I shall continue to file declaratory statements, and take proof of pre-emptions in all cases when the settlements were made prior to the closing of the office. It appears clear to my mind that when the settlement is made prior to the location of the road, that the right of pre-emption attaches, and that the State will be permitted to select the lands in lieu thereoff. To take any other view of the case, would be doing great injustice to many actual settlers in this district.

I respectfully request instructions on these points from the department.

Respectfully your ob't serv't,

LYSANDER W. BABBITT, *Register.*

Hon. THOS. A. HENDRICK,
Com. Gen. Land Office, Washington City.

223 [Copy No 4.]

GENERAL LAND OFEICE, *June* 13*th*, 1856.

REG'S AND REC'R, *Council Bluffs, Iowa*:

GENTLEMEN: Your communication of the 31st ult. stating that you had not received the recent instructions for withdrawing lands in your district, but that you had closed your office on that day has just reached this office. Your course in closing the office is approved, and I herewith transmit duplicates of my telegraphic dispatch of the 10th ult., and my instructions of the 15 ult., by mail. Your inquiries relative to pre-emption claims will be the subject of a future letter.

I am, very respectfully, your o'bt serv't,

THOS. A. HENDRICK,
Commissioner.

224 [Copy. No. 5.]

GENERAL LAND OFFICE, *June 19th*, 1856.

REG'S REC'R, *Council Bluffs, Iowa:*

GENTLEMEN: Instructions having been sent you from this office by telegraph on the 10th ultimo, and subsequently by mail on the 15th ult., in reference to the withdrawal from market of certain lands in your district, in pursuance to an act of Congress approved on the 15th ult., making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State, you are advised that settlements are authorized upon any of the land thus withdrawn, and rights of pre-emption may be acquired, as well to sections which may be odd numbered and within the six mile limits of the line of the railroad, as to the other lands so reserved. By the first section of the act referred to the United States can dispose of by pre-emption any of the lands thus withdrawn up to the time "when the lines or routes of said road are definitely fixed." Then, and not till then, will the right of the State attach, under the said act, to all vacant lands in the odd numbered sections within the six mile limits. Acknowledge the receipt of this.

Very respectfully, &c.,

THOS. A. HENDRICK,
Commissioner.

225 [Copy No. 6.]

REGISTER'S OFFICE, COUNCIL BLUFFS,
June 26th, 1856.

SIR: I have this day received your letter of the 13th instant, together with duplicates of your dispatch of the 10th ult., and your letter of the 15th ult., relative to the withdrawal of land in this district from market, which letters have been placed on file in this office.

Very respectfully, your ob't ser'vt,

LYSANDER W. BABBITT,
Register.

Hon. COMMISSIONER, GEN'L LAND OFFICE,
Washington City, D. C.

[Copy No. 7.]

REGISTER'S OFFICE, COUNCIL BLUFFS,
July 14th, 1856.

SIR: I have received your letter of the 19th ult. in reference to pre-emptions upon lands in [in] this district, which have been withdrawn from sale.

I am, sir, very respectfully, your obt. ser'vt,

LYSANDER W. BABBITT,
Register.

Hon. COMMISSIONER GEN'L LAND OFFICE,
Washington, D. C.

226 [Copy No. 8.]

CHICAGO, ILL., *Sept.* 4, 1856.

SIR: For in behalf of the State of Iowa, and the four several railroad companies, which by the act of the legislative assembly of said State, approved July 14th, 1856, were constituted the beneficiaries of the grants of land made to said State by the act of Congress, approved May 15th, 1856, and as the legally appointed agent of said State and of said companies, I hereby select the unsold lands in the sections and parts of sections designated by odd numbers, between the six and fifteen mile limits on each of the roads, to make up the deficiency caused in the odd numbered sections within the six mile limits, by sale or valid pre-emption rights, existing prior to the grants made to the State by said act of Congress.

Very respectfully, your ob't serv't,

BENHART HERM, *Agt., &c.*

Hon. THOS. A. HENDRICK,
Com. Gen'l Land Office, Washington City, D. C.

(This letter, endorsed "Sept. 10th, 1856," showing date of receipt at G. L. O.)

327 [Copy No. 9.]

GENERAL LAND OFFICE, *August 30th*, 1856.

SIR: I have the honor to acknowledge the receipt at this office, on the 28th instant, by "Adams Express," of the certified map of location of the "Burlington & Missouri River railroad," which [which] has been placed on file in this office. It is perceived that the certificate does not state that the map exhibits the route as "definitely fixed," as was suggested to be necessary in the acting commissioner's letter to the secretary of the state of Iowa, on the 20th instant, explaining the views of this office on that point, which in all probability had not been received at the time the map was dispatched. As it is not deemed advisable to return the map for this correction, I respectfully request that a supliment, certified under the seal of State, may be forwarded to this office, to be annexed to the map, setting forth that the map exhibits the rout of the road as "definitely fixed," in compliance with the act of Congress, approved May 15th, 1856.

I am, very respectfully, your ob't serv't,

JOSEPH S. WILSON,
Acting Commissioner.

His Excellency JAMES W. GRIMES,
Governor of Iowa, Iowa City.

228 [Copy 9½]

GENERAL LAND OFFICE, *Sept. 8th*, 1856.

Hon G. W. MCCLEOY,
Secretary of State, Iowa City:

SIR: I have the honor to acknowledge the receipt of your communication of the 29th ultimo, in reply to the acting commissioner's letter of the 20th ultimo, on the subject of exception taken by this

office to the provisions of the 6th section of the act of the legislature of Iowa, approved 14th of July, 1856, relative to the maps of the railroads required to be filed in this office, and requiring the certificates to state that they are the lines or routs "definitely fixed," as required by the law of Congress, or no title vest; in pursuance of which in letter to the Governor of Iowa, of the 30th ultimo, acknowledging the receipt of the map of the "Burlington and Missouri River railroad," he was requested to supply the ommission in the certificate of the words above quoted, by forwarding to this office a corrected or supplemental certificate, to be annexed to the
229 map. In reply I have to state, that after a respectful and attentive consideration of the arguments and explinations contained in your letter, I am unable to arrive at any different conclusion from that of my predicessor above refered to, for whatever may have been the intention of the legistature, nay even admitting that it was precisely such as you describe, still the law has to be construed by the language employed in it, not by any intention in the minds of the legislator but not expressed in the law; and as that language sets no limits whatever to the amount of the variation which could afterwards be made in the route, I must therefore respectfully repeat the request that the supplemental certificates may be forwarded, and it will be an easy matter to insert the proper amendment in certifying the maps of the three remaining roads yet to be transmitted.

I am, very respectfully, your ob't serv't,

JOHN HOOD.
Acting Commissioner.

230 [By Telegraph. No. 10.]

GENERAL LAND OFFICE, *October 20th*, 1856.

REG'R AND REC'R, *Council Bluffs, Iowa:*

GENTLEMEN: After receipt of this no pre-emptions are to be admitted within fifthen miles limits of the recent railroad grants.

Acknowledge by mail.

THOS. A. HENDRICK, *Commissioner.*

231 [No. 11.]

GENERAL LAND OFFICE, *Oct. 20th*, 1856.

REG'R AND REC'R, *Council Bluffs:*

GENTLEMEN: As ordered by the telegraphic dispatch of this date, pre-emptions are interdicted after the receipt at your office of that dispatch within the fifteen mile limits of the railroad grants made by the act of Congress approved 15th May, 1856.

Diagrams showing the exact limits above mentioned, and the routes of the roads now being laid down upon the maps in this office, will be forwarded to you as early as practicable.

Very respectfully, your ob't serv't,

THO'S A. HENDRICK, *Commissioner.*

[Copy No. 12.]

GENERAL LAND OFFICE, *Oct. 3rd*, 1856.

REG'R AND REC'R, *Council Bluffs, Iowa:*

GENTLEMEN: On the 15th May, 1856, an act of Congress
232 was approved making a grant of lands to the State of Iowa, in alternate sections, to aid in construction of railroads in said State, and on the 14th of July last, an act passed the Legislature of Iowa accepting the grant. The object of this is to call upon you, upon the filing, by the proper State agent in your office the line of rout for the "Mississippi and Missouri railroad," one of the routes designated in the act of the legislature aforesaid, to make a succint report, stating the fact of the filing of the route, the date when filed, the name of the agent and the evidence of his authority; you will at the same time send on a careful prepared list, authenticated by your signature, showing each section and parts of section, with the township and range, cut by the line of the route. You will bear in mind the purport of the foregoing, and pursue the same course in regard to the lines of routes in your district for the other roads authorized by the acts above mentioned, taking heed to have the list of cut sections and parts of sections prepared with perfect accuracy.

I am, very respectfully, your ob't serv't,

THO'S A. HENDRICK, *Commissioner.*

233 [Copy No. 13.]

LAND OFFICE, COUNCIL BLUFFS, *October 29th*, 1856.

SIR: We have this day received a dispatch from your office, via Dubuque, Iowa, dated October 20, 1856, relative to pre-emptions within the fifteen mile limits of the recent railroad grants.

Very respectfully, your ob't serv't,

JAMES POLLARD, *Reg'r.*
ENOS LOWE, *Rec'r.*

Hon. COMMISSIONER GEN'L LAND OFFICE,
Washington City, D. C.

[Copy No. 14.]

LAND OFFICE, COUNCIL BLUFFS, *Nov. 15th*, 1856.

SIR: Your letter of the 3rd ult., calling the attention of this office to the filing of the line of route for the Mississippi and Missouri railroad has been received. In reply we would state that there is upon file in this office a plat showing the line of route of said railroad, the same being certified to by the vice-president, chief engineer, and secretary of said railroad co., with a certificate of the governor of the State of Iowa that the same was duly filed in his office.

234 It appears from a certificate of the late register endorsed upon said plat, that it was filed in this office upon the 19th of August, 1856, by Edward House, one of the engineers of said co.

Herewith we transmit a list showing each section and parts of sections, with the township and range cut by the line of route.

Very respectfully,

JAMES POLLARD, *Register.*
ENOS LOWE, *Receiver.*

Hon. COMMISSIONER GENERAL LAND OFFICE,
Washington City, D. C.

235 At an adjourned meeting of the board of directors of the Burlington and Missouri River Railroad Company, at Burlington, March 19th, 1857, the following proceedings were had, as appears from the record, viz:

BURLINGTON, IOWA, *March* 19th, 1857.

The board of directors met pursuant to adjournment. Present: W. F. Coolbaugh, prest., and Messrs. Carpenter, Newman, Killpatrick, Lathrop, and McElhinny.

The subject of the final location of the line of the road from Ottumwa to the Missouri river was taken and considered, when on motion the board adjourned until the 24th inst., at 10 o'clock a. m.

OLIVER COCK, *Sec'y.*

MARCH 24th, 1857.

The board of directors met pursuant to adjournment. Present: W. F. Coolbaugh, prest., and Messrs. Carpenter, Rand, Newman, Lathrop, Killpatrick and McElhinny.

The committee appointed to arrange the notes held by Messrs. Green, Thomas & Co., and Coolbaugh and Brooks, made a written report, which on motion was approved, and the report placed on file.

236 The claim of Frederick Schree for $5 overpaid upon his stock subscription was allowed and ordered to be paid, and the secretary authorized to issue to him a certificate of one-half of one share of stock.

The application of A. Turner, for a continuation of his salary as engineer from the time of his discharge by the chief engineer to this date was rejected.

The bill of J. H. Randolph, of $350, for services at 3½ per cent. collecting $10,000, private subscriptions in Henry county, was allowed.

The committee appointed to enquire the claim of W. & S. McCutcheon, for damages by running railroad through their land in the city of Burlington, reported that the sum of $200 in stock be allowed them for the right of way through their land, and for strip of land on the south side of said line of railroad, which was approved.

The bill of the Chicago Times of $8, for advertising proposals to contractors, was allowed.

The bill of T. W. Newman, for money advanced for expenses, and for services rendered the company in securing the right of way, and securing donation of lands, &c., was considered, and on motion
237 the sum of $222, money expended by him as aforesaid, be

allowed, and $360 for services be allowed in stock of the company.

The bill of N. Lathrop, for money expended, and for services rendered this company in securing right of way and donations of land, &c., was considered, and on motion the sum of $156 be allowed him, and the sum $150 in stock of the company.

The bill of E. Killpatrick, for expenses incurred in attending the meetings of the board of directors, amounting to $39 50-100, was allowed.

Ordered that the sum of $1,000 be loaned from Skunk bridge fund to the E. Engineer's fund.

Ordered that the Secretary be instructed to allow John G. Read, and his associates to subscribe to the capital stock of the company.

The following resolutions was presented, and after mature consideration, was unanimously adopted, (viz:)

Resolved, that the mass or plat herewith presented by the chief Engineer, showing the route or location of the Burlington and Missouri River railroad, as fixed by him in pursuance of the res-
238 olution of the board of directors, passed on the 25th day of July, A. D. 1856, as will appear by reference to the records of said company, be hereby accepted, and the line as fixed and designated on said map or plat be, and is hereby, declared as definitely fixed, in compliance with the act of the legislative assembly of the State of Iowa, approved July 14th, 1856, and in pursuance of the order of the board of directors.

On motion of Mr. Newman, ordered that the Secretary be, and he is hereby, authorized to issue certificates of stock to all persons who paid money for the extensive survey.

Adjourned. OLIVER COCK, *Secr'y.*

A true and perfect copy.

Witness C. E. Perkins, secr'y of said company, with the seal of the Co. annexed, at Burlington, the 26th day of January, 1865.

[SEAL.]

In District Court of Mills county, Iowa.

MILLS COUNTY	)	
vs.		
BURLINGTON & MISSOURI RIVER Railroad Co.	)	Chancery.

The defendant in the above-entitled cause is hereby noti-
239 fied to produce for evidence on the trial of the said cause the record of the board of directors of said railroad company, showing the time and proceedings of the meetings of said board at which the line of said railroad was adopted, after the same had been actually surveyed and staked off at the Missouri river and station flags marked on the map along said line, and if said record is not

produced on said trial I will prove by parole the time and action of said board of said meeting.

FEB'Y 15th, 1865.

HALL & HARVEY,
Att'y for Plaintiff.

A true copy.

M. HEISEY,
Sheriff, Des Moines Co., Iowa.

240 GENERAL LAND OFFICE,
May 27th, 1862.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the annexed paper is a true and literal exemplification of a list on the files of this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. M. EDMUNDS,
Commissioner of the General Land Office.

241 A list of lands in the Council Bluffs, Fort Des Moines and Sioux City districts, Iowa, claimed by said State as swamp, under the act of Congress approved September 28th, 1850, and also as lands granted to her for railroad purposes, under the act approved May 15th, 1856, her claim whereto as swamp has been rejected in accordance with the Secretary's decision of 8th February, 1860.

Copy furnished gov., with letter of March 10th, 1862. Also copy of so much as relates to each district respectively to the R. R., at Council Bluffs, Fort Des Moines and Sioux City.

In Council Bluffs district.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
		N.	W.		
242 SW qr of NE qr	3	71	34	40	
NE qr of SW qr and SW qr of SW qr	3	do	do	80	
SE qr of SE qr	5	do	do	40	
NE qr of SE qr and W half of SW qr	7	do	do	134. 95	
NW qr of NE qr and SE qr of SW qr	31	72	34	80	
S half of NE qr	35	do	do	80	
N half of NE qr and NW qr of NW qr	13	73	34	120	
SE qr of SE qr	15	do	do	40	
NE qr and N half of NW half	27	do	do	240	
SW qr of NW qr	23	do	do	40	
S half of SW qr	29	do	do	80	
NE qr of NE qr and W half of SE qr	31	do	do	120	
W half of SW qr and SE qr of SE qr	21	76	34	120	
SE qr of SW qr	31	77	34	40	
NW qr of NW qr	19	78	34	42. 28	
N half of NW qr	17	79	34	80	
SE qr of NW qr	31	do	do	40	
E half of section	19	81	34	320	
NE qr of SW qr and E half of section	31	do	do	360	
W half of E half	3	68	35	62, 71	
SW qr of NE qr and SW qr of SW qr	25	69	35	80	
E half of NE qr and SW qr of NE qr	35	do	do	120	
W half of SW qr	1	71	35	80	
NE qr of NW qr, SW qr of NW qr, and SE qr of SE qr	11	do	do	120	
S half of NE qr and N half of SE qr	11	do	do	160	
W half of NW qr	15	do	do	80	
NE qr, NE qr of SE qr, and SE qr of SW qr	17	do	do	240	
SE qr of SE qr	19	do	do	40	
				3, 079. 94	
243 SE qr and SE qr of SW qr	31	71	35	200	
SE qr	11	72	35	160	
NW qr of NE qr, S half of NE qr, and NW qr of SE qr	15	do	do	160	
S half of NW qr	15	do	do	80	
N half of section	29	do	do	320	
NE qr of NW qr and SW qr of NW qr	29	77	35	80	
SE qr of SE qr	15	79	35	40	
SE qr of NE qr and SE qr of SE qr	1	80	35	80	
W half of SE qr	11	do	do	80	
S half of NE qr and E half of SE qr	23	do	do	160	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	Town.	R'ng.	Acres.	Remarks.
E half of NW qr and SW qr of NW qr	35	N. 80	W. 35	120	
E half SW qr and NW qr of SW qr	35	do	do	120	
E half of NW half and W half of SW qr	7	68	36	183. 10	
E half of NW qr, NE qr of SW qr, and S half of NE qr	9	do	do	200	
W half of SE qr and NE qr of SE qr	9	do	do	120	
SW qr of NE qr, SE qr of NW qr, and SW qr	1	69	36	240	
W half of SE qr and SE qr of SE qr	1	do	do	120	
E half fr half of section	5	do	do	310. 50	
W half of section	9	do	do	320	
SE qr of NE qr, W half of NE qr, and W half of SE qr	23	do	do	200	
SE qr and SE qr of NE qr	27	do	do	200	
E half of NE qr, and E half of SE qr	5	70	36	160. 09	
N half of SW qr	9	do	do	80	
E half of NE qr	17	do	do	80	
E half of NW qr and E half of SW qr	21	do	do	160	
W half of SE qr and SE qr of SE qr	21	do	do	120	
SE qr, N half of NE qr, and NE qr of NE qr	29	do	do	280	
E half of NW qr and E half of SW qr	33	do	do	160	
				7, 604. 63	
244 E half of SE qr	9	71	36	80	
E half of SE qr	21	do	do	80	
W half of NW qr and NE qr of NW qr	23	do	do	120	
NE qr of SE qr	27	do	do	40	
SW qr of SE qr	21	72	36	40	
NW qr of SW qr	5	76	36	40	
NW qr of SE qr	7	77	36	40	
SE qr of SW qr	9	do	do	40	
SW qr of SW qr	13	do	do	40	
W half of SW qr	19	do	do	62. 60	
SE qr of NW qr	29	do	do	40	
E half of NW qr, and E half of SW qr	9	71	37	160	
W half of NE qr and NE qr of NW qr	29	do	do	120	
W half of NE qr, and NE qr of SW qr	33	do	do	120	
SE qr of SE qr	7	74	37	40	
N half of NW qr and SW qr of SW qr	17	do	do	120	
NW qr of SE qr	3	77	37	40	
E half of NW qr and NW qr of SE qr	5	do	do	199. 42	
NE qr of SE qr	19	do	do	40	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	Town. N.	R'ng W.	Acres.	Remarks.
W half of NW qr	27	77	37	80	
N half of NE qr and SW qr of NE qr	13	80	37	120	
N half of SW qr and NW qr of SE	13	do	do	120	
SW qr of NW qr S half of SW qr, and NE qr of SW qr.	23	do	do	160	
NW qr of NW qr	27	do	do	40	
SE qr of NW qr and SW qr of SE qr	29	do	do	80	
SW qr and NW qr of SE qr.	31	do	do	208.76	
W half of NE qr and SW qr.	7	71	38	237.89	
NW qr of NE qr	17	72	38	40	
W half of SW qr and NE qr of SW qr	29	do	do	120	
SW qr of NE qr and E half of SW	31	do	do	120	
				10,813,30	
245 NW ¼ of NE ¼	13	73	38	40	
SW ¼ of SW ¼	31	do	do	36.65	
NW f'l ¼ of NE ¼	1	79	38	35.19	
SW ¼ of NE ¼	7	do	do	40	
E ½ of NE ¼, W ½ 0f SW ¼, and NE ¼ of SW ¼	19	do	do	216.21	
SE ¼ of NE ¼ and W ½ of SE ¼	3	80	38	120	
E ½ of SW ¼ and SW ¼ of SW ¼	3	do	do	120	
E ½ of NE ¼ and E½ of SE ¼	9	do	do	160	
SW ¼ of NW ¼, E ½ of SE ¼, and E ½ of SW ¼	15	do	do	200	
W ½ of SW ¼	17	do	do	80	
NE of NE ¼, W ½ of SE ¼, and NE ¼ of SE ¼	19	do	do	160	
E ½ of NE ¼ and E½ of SE ¼	31	do	do	160	
E ½ of NE ¼ SW ¼ of NE ¼ and N ½ of SE ¼	33	do	do	200	
N ½ of SE ¼	5	81	38	80	
Whole f'l section	5	69	39	607.94	
Whole f'l section	7	do	do	630.64	
E ½ of NW ¼, SW ¼ of NW ¼, and SW ¼ of SW ¼	1	70	39	159.10	
E ½ of SW ¼	1	do	do	80	
NW ¼	13	do	do	160	
SW ¼ of NE ¼ and W ½ of SE ¼	1	71	39	120	
S ½ of NW ¼	17	do	do	80	
E ½ of NE ¼	19	do	do	80	
SW ¼ of SE ¼	11	72	39	40	
NE ¼ of NW ¼	23	do	do	40	
NW ¼ of SE ¼	27	do	do	40	
E ½ of sec, SW ¼ and W ½ of NW ¼	5	76	39	545.11	
E ½ of sec and SW ¼	7	do	do	458.84	
NW ¼ and W ½ of SW ¼	17	do	do	240	
NW ¼ of NE ¼ and W ½ of sec	19	do	do	321.44	
				15,564 47	
246 W ½ of NE ¼, W ½ of SE ¼, and SE ¼ of SE ¼	3	77	39	202.95	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	W.		
E ½ of sec, SW ¼, and E ½ of NW ¼	5	77	39	563.03	
E ½ of SE ¼	9	do	do	80	
N ½ of NW ¼	15	do	do	80	
E ½ of sec, SW ¼ and E ½ of NW ¼	17	do	do	560	
NW ¼	21	do	do	160	
Whole of section	29	do	do	640	
W ½ of SW ¼	33	do	do	80	
NW ¼ of SW ¼	3	78	39	40	
Lot No. 1	5	do	do	50.88	
W ½ of NW ¼	7	do	do	50.50	
NW ¼ of SE ¼	9	do	do	40	
SW ¼ of SW ¼	13	do	do	40	
SW ¼ of SE ¼	23	do	do	40	
SE ¼ of SE ¼	29	do	do	40	
SE ¼ of NE ¼ and S ½ of SW ¼	5	69	40	120	
SW ¼ of SE ¼ and N ½ of SE ¼	5	do	do	120	
N ½ of NW ¼, SW ¼ of NW ¼, and W ½ of NE ¼	7	do	do	207.53	
SE ¼ and E ½ of NE ¼	1	70	40	239.94	
Whole of sec SW ¼ of NE ¼	13	do	do	360	
NE ¼, W ½ of SE ¼ and E ½ of SW ¼	23	do	do	320	
SE ¼ SE ¼ of NE ¼ and SE ¼ of SW ¼	27	do	do	240	
SE ¼ SE ¼ of SW ¼ and S ½ of NE ¼	33	do	do	280	
N ½ of NW ¼, SE ¼ of NW ¼, SW ¼ of SW ¼, W ½ of NE ¼, NE ¼ of NE ¼	5	72	40	226.96	
N ½ of sec, SW ¼, and E ½ of SE ¼	7	do	do	557.88	
E ½ of NE ¼ and W ½ of NW ¼	17	do	do	160	
N ½ of section	19	do	do	321.93	
E ½ of NW ¼ and SW ¼	1	73	40	235.23	
W ½ of NW ¼ and W ½ of SW ¼	3	do	do	155.85	
				21,777 15	
Whole section	9	73	40	640	
S ½ of SE ¼ and NE ¼ of SE ¼	11	do	do	120	
W ½ of sec, SE ¼, and S ½ of NE ¼	15	do	do	560	
E ½ of SW ¼, W ½ of SE ¼, SE ¼ of SE ¼	17	do	do	200	
Whole of section	21	do	do	640	
E ½ of sec, NW ¼, and E ½ of SW ¼	29	do	do	560	
NW ¼ of SW ¼	29	do	do	40	
W ½ of sec, SE ¼, W ¼ of NE ¼, and NE ¼ of NE ¼	31	do	do	580	
W ½ of NE ¼, SE ¼ of NE ¼, and SE ¼	15	74	40	280	
E ½ of NW ¼ and SW ¼ of NW ¼	21	do	do	120	
SW ¼ of NE ¼ and SE ¼	27	do	do	200	
E ½ of SE ¼	33	do	do	80	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	T'n.	R'ge	Acres.	Remarks.
		N.	W.		
NW ¼ and N ½ of SW ¼	1	75	40	236.07	
W ½ of sec, and N ½ of NE ¼	11	do	do	400	
SW ¼ of N E ¼ and NW ¼ of SE ¼	11	do	do	80	
NE ¼, E ½ of SE ¼, and NW ¼ of SE ¼	15	do	do	280	
Whole of section	23	do	do	320	
E ½ of NE ¼	27	do	do	80	
W ½ of sec and SE ¼	25	76	40	480	
E ½ of NE ¼ and SW ¼ of NE ¼	25	do	do	120	
SE ¼ of SE ¼	11	80	40	40	
Whole of section	5	69	41	626.80	
SE ¼ of NE ¼ and NE ¼ of SE ¼	7	do	do	80	
SW ¼ of NW ¼, and S ½ of NE ¼, NE ¼ of NE ¼, and S ½ of sec	9	do	do	480	
S ½ of sec, S ½ of NE ¼, and S ½ of NW ¼	11	do	do	480	
NW ¼ and W ½ of SW ¼	3	70	41	234.83	
E½ of sec, SW ¼, and N ½ of NW ¼	5	do	do	551.48	
E ½ of NE ¼ and E ½ of SE ¼	7	do	do	160	
				30,426 77	
248 Whole of section	9	70	41	640	
NW qr of NW qr	15	do	do	40	
E half of sec, NW qr, W half of SW qr, NE qr SW qr	17	do	do	600	
E half of SE qr and SW qr of SE qr	19	do	do	120	
E half of sec	21	do	do	320	
W half of NW qr	27	do	do	80	
W half of sec, W half of NE qr, and W half of SE qr	29	do	do	480	
E half of NE qr, E half of SE qr, and SW qr of SE qr	31	do	do	200	
S half of SE qr, W half of SW qr, and SE qr of SW qr	33	do	do	200	
Whole section	9	71	41	640	
NW qr, W half of SW qr, and NW qr of NE qr	11	do	do	280	
Whole of section	15	do	do	640	
NE qr of NE qr	17	do	do	40	
E half of sec, SW qr, and NE qr of NW qr	21	do	do	520	
W half of sec, W half of NE qr, and W half of SE qr	27	do	do	480	
SE qr, E half of NE qr, and E half of NW qr	29	do	do	320	
E half of SW qr and NW qr of SW qr	29	do	do	120	
SE qr of SE qr	31	do	do	40	
E half of sec, SW qr, and E half of NW qr	33	do	do	560	
NW qr of NW qr	33	do	do	40	
SE qr and E half of SW qr	1	72	41	240	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
S half of sec, E half of NE qr, and NW qr of NE qr	13	N 72	W. 41	440	
S half of NW qr	19	do	do	80.87	
E half of sec, SW qr, and E half of NW qr	23	do	do	560	
W half of sec and NE qr	25	do	do	480	
NE qr and E half of SE qr	27	do	do	240	
SW qr	29	do	do	160	
E half of sec, SW qr, and NW qr of NW qr	35	do	do	520	
SW qr of SW qr	19	73	41	35.17	
SW qr of SE qr	3	74	41	40	
				39,582.81	
249 NE qr and NE qr of SE qr	3	74	41	174.94	
W half of NW qr	15	do	do	80	
NE qr of SE qr	21	do	do	40	
E half of SE qr and SW qr of SE qr	29	do	do	120	
SW qr of SE qr	23	75	41	40	
SW qr of NE qr	35	do	do	40	
W half of NW qr and NW qr of SW qr	5	77	41	110.11	
E half of NE qr, and NW qr of NE qr, and E half of SE qr	7	do	do	200	
W half of SW qr and SE qr of SW qr	19	do	do	99.65	
W half of NW qr and SE qr of NE qr	25	do	do	120	
NW qr of NW qr	5	80	41	42.70	
NE qr, N half of SE qr, and SW qr	1	73	42	390.07	
NE qr and E half of SW qr	5	do	do	233.99	
E half of NE qr and E half of SE qr	11	do	do	160	
NW qr of NW qr	13	do	do	40	
E half of NW qr and W half of NE qr	19	do	do	160	
W half of SE qr and SE qr of SW qr	19	do	do	120	
N half of NE qr	25	do	do	80	
NE qr of NW qr, SW qr of NE qr, and NW qr of SE qr	31	do	do	120	
NW qr of NE qr, E half of NE qr, and S half of SE qr	9	74	42	200	
W half of NE qr and E half of NW qr	21	do	do	160	
E half of SW qr and NW qr of SE qr	21	do	do	120	
SE qr of SE qr	29	do	do	40	
W half of NW qr	33	do	do	80	
W half of SW qr	27	75	42	80	
SE qr of NE qr, S half of SW qr, and SE qr	3	76	42	280	
NE qr of SE qr	9	do	do	40	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	W.		
SW qr of SW qr	25	75	42	40	
W half of NW qr	9	77	42	80	
				43,081.27	
250 NW qr of NW qr	17	77	42	40	
NW qr of NE qr, W half of SE qr, and NE qr of SE qr	19	do	do	160	
NE qr, W half of SW qr, W half of SE qr, and NE qr of SE qr	35	do	do	360	
E half of NW qr and NW qr of SW qr	29	78	42	120	
SE qr of NE qr, E half of SE qr, and SW qr of SE qr	33	do	do	160	
W half of NE qr and E half of NW qr	3	69	43	145.42	
E half of sec, E half of SW qr, and SE qr of NW qr	5	do	do	429.30	
W half of section	3	70	43	310.45	
Lot No. 1, and NE qr of NE qr	5	do	do	82.20	
Lots Nos 3 and 4, SW qr of SEqr, and E half of SE qr	5	do	do	220.25	
S half of section	9	do	do	320	
E half of NE qr and SW qr of NE qr	9	do	do	120	
SE qr of NW qr, and W half of NW qr	9	do	do	120	
W half of section	11	do	do	320	
S half of sec, S half of NE qr, and S half of NW qr	15	do	do	480	
NW qr	17	do	do	160	
SW qr of NE qr	17	do	do	40	
SE qr	17	do	do	160	
E half of SW qr and NW qr of SW qr	17	do	do	120	
Lots No. 1, 2, 3, and 4, and E half of SW qr	19	do	do	246.76	
NW qr, E half of NE qr, and SE qr	21	do	do	400	
N half of section	27	do	do	320	
S half of SE qr, and S half of SW qr	27	do	do	160	
E half of sec, W half of NW qr, and W half of SW qr	29	do	do	480	
S half of sec, E half of NE qr, and NE qr of NW qr	31	do	do	399.53	
W half of sec, SE qr, and W half of NE qr	33	do	do	560	
NW qr, and W half of SE qr	1	71	43	219.46	
N half of sec, SE qr, E half of SW qr, NW qr of SW qr	3	do	do	551.24	
NW qr, N half of SW qr, S half of NE qr, and SE qr	5	do	do	451.47	
W half of sec, W half of NE qr, and E half of SE qr	9	do	do	480	
				51,217.35	

In Council Bluffs district.—Continued.

	Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
251	N half of NE qr and N half of NW qr	11	N. 71	W. 43	160	
	S half of sec and W half of NW qr	17	do	do	400	
	NE qr of NE qr	19	do	do	40	
	NW qr, W half of SW qr, and NW qr of NE qr	21	do	do	280	
	E half of sec	29	do	do	320	
	NW qr of NE qr, S half of NE qr and SE qr of NW qr	33	do	do	160	
	SE qr and E half of SW qr	33	do	do	240	
	W half of SW qr, SE qr of SW qr and SW qr of SE qr	35	do	do	160	
	W half of sec, W half of NE qr, and NE qr of NE qr	5	72	43	403. 88	
	SW qr of NW qr	7	do	do	41. 5	
	SW qr	17	do	do	160	
	W half of section	19	do	do	320. 15	
	Whole of section	21	do	do	640	
	SW qr of SW qr	23	do	do	40	
	Whole of section	27	do	do	640	
	E half of sec, SW qr, and W half of NW qr	29	do	do	560	
	E half of section	31	do	do	320	
	W half of sec, W half of NE qr, and W half of SE qr	33	do	do	480	
	E half of sec and S half of NW qr	35	do	do	400	
	NE qr, N half of NW qr, NW qr of SE qr, and SE qr of SW qr	5	73	43	325. 22	
	W half of sec, SE qr, W half of NE qr, and SE qr of NE qr	7	do	do	595. 82	
	E half of NW and E half of SW qr	17	do	do	160	
	NW qr of NW qr, S half of NE qr, and E half of SE qr	19	do	do	201. 30	
	W half of NE qr and W half SE qr	31	do	do	160	
	S half of sec and W half of NW qr	17	74	43	400	
	Whole of section	21	do	do	640	
	W half of NW qr and W half of SW qr	27	do	do	160	
	NE qr, E half of SE qr, and lots No 1 and 2	29	do	do	365. 80	
	N half of N W qr, SW qr of NW qr, and lots 3 & 4	29	do	do	209. 20	
					60, 199. 93	
252	NW qr, N half of NE qr, and W half of SW qr	31	74	do	304. 62	
	NW qr of NE qr, NW qr of SW qr, and NW qr	33	do	do	240	
	N half of NE qr and E half of NW qr	5	76	43	147. 61	

In Council Bluffs district.—Continued.

Parts of section.	Sec	T'n.	R'ge.	Acres.	Remarks.
		N.	W.		
SE qr of SW qr and S half of SE qr	23	77	43	120	
N half of NE qr and NW qr of NW qr	25	do	do	120	
NE qr of NE qr and SW qr of NE qr	27	do	do	80	
SE qr of NW qr and NW qr of SW qr	27	do	do	80	
W half of NE qr and SE qr of NW qr	33	do	do	120	
W half of SW qr and NE qr of SW qr	33	do	do	120	
Lots No. 1, 2, 3, 4, 5, 9, 10, 11, and 18, and W half of SW qr	5	78	43	454. 16	
W half of sec, NE qr and W half of SE qr, and NE qr of SE qr	7	do	do	544. 60	
Whole of section	1	72	44	542. 95	
Lot No. 1	11	do	do	15. 68	
W half of NE qr and SW qr of SE qr	13	do	do	120	
E qr of SW qr and NE qr of NW qr	13	do	do	80	
E half of NW qr and W half of NE qr	25	do	do	160	
W half of SE qr and NE qr of SW qr	25	do	do	120	
NE qr of NE qr	1	73	44	40. 37	
S half of SE qr and SE qr of SW qr	1	do	do	120	
E half NE qr, NW qr of NE qr, and NE qr of SE qr	13	do	do	160	
Lots Nos. 2 and 3	23	do	do	64. 50	
Whole of f'l section	27	do	do	12. 60	
NE qr of NW qr and lots No. 1, 2, and 3	35	do	do	191. 27	
Whole of f'l section	9	74	44	174. 77	
S half of NE qr	21	do	do	80	
N half of NE qr	25	do	do	80	
SW qr	25	do	do	160	
Whole of f'l section	27	do	do	27. 58	
W half of NE qr and NE qr of NE qr	35	do	do	120	
W half of NE qr and N half of NW qr	3	75	44	151	
				64, 951. 64	
253 W half of NW qr, NE qr of SW qr, and lots 3 and 5	11	75	44	209. 36	
Lots Nos. 1, 2, and 3	23	do	do	119. 99	
SE qr of SE qr	1	76	44	40	
NE qr of NW qr	13	do	do	40	
S half of section	15	do	do	320	
W half of NW qr.	15	do	do	80	
NE qr of NE qr	15	do	do	40	
NE qr	23	do	do	160	
W half of NW qr	23	do	do	80	

In Council Bluffs district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	W.		
NE qr of NW qr	23	76	44	40	
W half of SE qr, and SW qr	23	do	do	240	
W half of SE qr, S half of SW qr, SE qr of NE qr, and lots Nos. 1, 2, 3, and 4	27	do	do	409.47	
Lots 1 2 and and SE qr	29	do	do	273.90	
SW qr	29	do	do	160	
N half of section	33	do	do	320	
E half of SE qr	33	do	do	80	
SW qr of SE qr	33	do	do	40	
SE qr	5	77	44	160	
SW qr	5	do	do	160	
W half of section	15	do	do	320	
SW qr of SE qr	15	do	do	40	
W half of SW qr and SW qr of NW qr	23	do	do	120	
S half of SE qr	27	do	do	80	
E half of SE qr and SW qr of SE qr	29	do	do	120	
NW qr of SW qr and SE qr of SW qr	29	do	do	80	
Lot No. 1, E half of NW qr, and NW qr of NW qr	33	do	do	187.70	
W half of section	35	do	do	320	
SW qr, W half of SE qr, and NE qr of SE qr	13	78	44	280	
S half of SW qr and S half of SE qr	23	do	do	160	
				69,630.08	
254 W half sec, NE qr, W half of SE qr, and NE qr of SE qr	27	78	44	600	
W half of sec and NE qr	23	do	do	480	
				70,710.08	

IN FORT DES MOINES DISTRICTS.

		N.	E.		
N half of NW qr, NW qr of SE qr, and lot 9	23	81	1	158.80	
SE qr of SW qr	25	do	do	40	
Lot No. 1	11	80	2	63.85	
SE qr, S half of SW qr, and lots 1, 6, and 7	15	do	do	394.98	
SW qr of SE qr	29	do	do	40	
E half of SE qr	31	do	do	80	
W half of SW qr	29	81	2	80	
SW qr of SW qr	5	80	3	40	
NE qr of NW qr	11	do	do	40	
		N.	W.		
SW qr of NW qr	7	76	2	40	
E half of NE qr	19	78	2	80	
S half of NW qr and SW qr	3	77	3	240	
Lot No. 4, on Island	3	do	do	15.20	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	E.		
N half of SW qr	31	77	3	77.04	
NW qr of NE qr and S half of SE qr	19	78	3	120	
SW qr of NW qr and W half of SW qr	3	76	4	120	
Lot No. 1, S half of NE qr, E half of NW qr, and NE qr of SE qr	3	do	do	208.11	
NE qr of NE qr and E half of SE qr	9	do	do	120	
SW qr of NW qr	11	do	do	40	
Lots No. 8, 9, and 10 on Island	15	do	do	173.29	
Lot No. 2, W qr and SE qr of NW qr	21	do	do	254.80	
NE qr	3	77	4	160.64	
				2,617.29	
254½ NW qr of SE qr, NE qr of SE qr, and N half of SW qr	3	77	4	160	
NE qr, E half of NW qr, N half of SE qr, N half of S W qr	9	do	do	400	
NE qr of NE qr, S half of NE qr, SE qr and E half of S W qr	17	do	do	360	
NE qr, W half of SW qr, N E qr of SW qr, and NW qr	21	do	do	440	
W half of sec, NE qr of NE qr, W half of NE qr, and NW qr of SE qr	29	do	do	480	
NW f'l qr	31	do	do	154.96	
W half of SW qr and NE qr of SW qr	31	do	do	115.12	
Lots and Nos 6, 7, and 8	35	do	do	140.40	
SE qr of NE qr	35	79	4	40	
NE. qr.	1	76	5	161	
SW qr	3	do	do	160	
Lots Nos. 1, 2, and 3	5	do	do	127.68	
NE qr and lot No. 2	9	do	do	221.29	
S half of NW qr, E half of SE qr, and NW qr of SE qr	9	do	do	200	
E half of SW qr and SE qr of NW qr	11	do	do	120	
W half of NW qr	13	do	do	80	
SW qr of SE qr and E half of SE qr	15	do	do	120	
S half of SE qr and S half of SW qr.	21	77	5	160	
S half of SW qr	27	do	do	80	
NE qr and NE qr of SE qr	33	do	do	200	
Lot No. 7	11	81	5	61.75	
Lot No. 3	13	do	do	38.68	
NW qr of SE qr	15	77	6	40	
Lot No. 4	19	81	6	57.80	
S half of NW qr and NE qr of SE qr	17	77	7	120	
Lot No. 4	23	81	7	40.66	
Lot No. 2	27	do	do	12	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	E.		
SE qr. of SE qr and lots Nos. 2, 8, 9, and 11	29	81	7	204.81	
NW qr of NW and lots Nos. 1 and 6	31	do	do	117.38	
				7,230.82	
255 NW qr of SW qr	9	77	8	40	
SW qr of NW qr and NW qr of SW qr	11	do	do	80	
SE qr of SE qr and lots No 1, 2, and 5	29	81	8	150.46	
Lot 7, NW qr of SW qr, N half of SE qr, and SW qr SE qr	31	do	do	190.54	
SW qr of SE qr, SE qr of NW qr, and lots 3, 4 and 5	33	do	do	218.58	
W half of SE qr and lots 4 and 6	35	do	do	180.50	
E half of SW qr and NW qr of NW qr	27	81	9	120	
NW qr of NE qr and [and] lot No. 1	33	do	do	73.30	
E half of SE qr and NW qr of SE qr	19	81	10	120	
N half of NW qr and S half of SW qr	23	do	do	160	
N half of NW qr, SE qr of NW, and W half of NE qr	25	do	do	200	
N half of SW qr	25	do	do	80	
Lot No. 2	27	do	do	65.50	
Lots No. 2 and 3	3	78	11	81.15	
Lots No. 2 and 3	5	do	do	91.16	
S half of SW qr	13	81	11	80	
W half of NW qr and lot No. 4	17	do	do	148.10	
Lot No. 2	21	do	do	64.50	
N half of NW qr and lot No. 2	23	do	do	122.20	
Lot No. 3	3	78	12	51.01	
NW qr of SW qr	33	79	12	40	
S half of NW qr	35	do	do	80	
SW qr of SE qr	11	80	12	40	
NE qr	3	81	12	172.18	
NW qr of NE qr	31	82	12	40	
N half of NE qr and SE qr of NE qr	1	77	16	109.40	
Lots Nos. 3 and 4	3	78	17	130.74	
N half of NE qr	13	do	do	80	
NE qr of NW qr	9	79	17	40	
N half of NW qr and E qr of SW qr	27	------	------	120	
				10,400.14	
256 NE qr of SE qr	29	80	17	40	
SW qr	5	77	18	160	
SW qr of SW qr	3	78	18	40	
W half of NE qr and SE qr NE qr	15	do	do	120	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	E.		
W half of SW qr, SE qr of W½qr, and S half of SE qr..	19	78	18	184. 99	
E half of SW qr.....	23	do	do	80	
S half of sec, and W half of NE qr.....	29	do	do	400	
S half of sec, W half NE qr, and SE qr of NE qr.....	31	do	do	427. 52	
SW qr of SW qr.....	33	do	do	40	
SE qr of NE qr and W half SW qr.....	35	do	do	120	
SE qr of SW qr and S half of SE qr.....	35	do	do	120	
NW qr of NE qr.....	21	79	18	40	
SW qr of SW qr.....	5	80	18	40	
SW qr of SW qr.....	9	do	do	40	
SW qr of NW qr N half of SW qr, and SW qr. of S. E qr.....	15	do	do	160	
SW qr of SW qr.....	23	do	do	40	
SW qr of NW qr, NW qr of SW qr, and SE qr of S W qr.....	25	do	do	120	
SW qr of SE qr.....	25	do	do	40	
Lots No. 1 and 8.....	5	78	19	105. 92	
SW qr and W half of SE qr..	3	do	do	240	
NW qr of SW qr.....	11	do	do	40	
NE qr of NE qr.....	15	do	do	40	
SE qr of SE qr, SW qr of NE qr, and E half of SW qr...	15	do	do	160	
SE qr of NW qr and SW qr of SW qr.....	15	do	do	80	
NE qr of NE qr.....	21	do	do	40	
SE qr, E half of SW qr, E half of NE qr, and SW qr of NE qr.....	23	do	do	360	
E half of NW qr and SW qr of NW. qr.....	23	do	do	120	
E half of NW qr NW qr of NW qr, and W half of N E qr.....	19	79	19	205. 06	
N half of SE qr, SE qr of SE qr, and NE qr of SW qr....	19	do	do	160	
				14, 163. 83	
S half of SW qr.....	21	79	19	80	
257 NE qr, N half of NW and W half of SW qr	29	do	do	320	
N half of SE qr, and SE qr of SE qr.....	29	do	do	120	
W half of NE qr, W half of SE qr, and NE qr of SW qr.	33	do	do	200	
E half of NW qr and NW qr of NW qr.....	33	do	do	120	
SW qr and NW qr of NW r.	3	79	20	202. 92	
NE qr of SW and S half of SE qr.....	11	do	do	120	
SE qr of NE qr, SE qr of SE qr and NE qr of SW qr.....	13	do	do	120	
NE qr and NE qr of NW qr..	15	do	do	200	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n. N.	R'ge. E.	Acres.	Remarks.
W half of SW qr	7	80	02	79.25	
E half of NE qr and E half of SE qr	19	do	do	160	
W half of NE qr, NW qr, and E half of SE qr	29	do	do	320	
NW qr of SE qr and N half of SW qr	29	do	do	120	
E half of NW qr, NE qr of SW qr, and S half of SW qr	31	do	do	203.40	
W half of sec. and SE qr	33	do	do	480	
SW qr of NE qr	5	81	20	40	
NW qr of SW qr and SE qr of SE qr	29	82	20	80	
NW qr of NE qr and SW qr of NW qr	1	79	21	86.94	
S half of NE qr	3	do	do	80	
SW qr of SW qr	1	80	21	40	
N half of NE qr and NW qr	3	do	do	297.90	
SE qr of NE qr	13	do	do	40	
SW qr	19	do	do	170.40	
S half of NW qr and NW qr of SE qr	29	do	do	120	
W half of SW and NE qr of SW qr	29	do	do	120	
SE qr of SE qr	7	79	22	40	
NW qr of SW qr	15	do	do	40	
NW qr and SW qr of NE qr	3	80	22	229.82	
NE qr	5	do	do	189.75	
E half of NE qr, NW qr of NE qr and E half of SE qr	9	do	do	200	
				18,783,91	
258 W half of NW qr, SW qr and NW qr of SE qr	11	80	22	280	
NW qr of W half of SE and SE qr of SE qr	13	do	do	280	
E half of SW qr and SW qr of SW qr	13	do	do	120	
N half of NW qr, E half of SE qr NW qr of SE qr, and S half of NE qr	15	do	do	280	
W half of sec., SE qr, and S half of NE qr	19	do	do	560.76	
NW qr, SW qr of NE qr, and half of NE qr	23	do	do	280	
NE qr and E half of NW qr	25	do	do	240	In letter to Gov. & R. R., Ap'l 29, 1862.
SW qr, W half of SE qr, NW qr of NE qr, and NE qr of NW qr	29	do	do	320	
W half of NE qr, E half of NW qr, E half of SE qr, and SW qr of SW qr	31	do	do	281.24	
SE qr of SE qr	5	81	22	40	
SW qr of NW qr, and W half of SW qr	7	do	do	110	
NE qr, of NE qr, and NW qr of NW qr S half of NW qr of SE qr, NW qr of SW qr and E half of SW qr	19	do	do	319.49	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	E.		
S half of SE qr, NW qr of SW qr and S half of SW qr	29	22	81	200	
NW qr, S half of NE qr and NE qr of SW qr	31	do	do	278.31	
E half of SE qr and NW qr of SE qr.	31	do	do	120	
S half of sec. and W half of NW qr	33	do	do	400	
SE qr of NW qr and SE qr of NE qr	33	do	do	80	
NW qr of SW qr	1	79	23	40	
SW qr of SW qr	1	80	22	40	
NE qr of SE qr and SE qr of NW qr	3	do	do	80	
NW qr of SW qr	11	do	do	40	
NE qr of SE qr	13	do	do	40	
NW qr of NW qr	15	do	do	40	
SW qr of SW qr	23	do	do	40	
W half of NE qr	2	do	do	80	
E half of SW qr	53	81	20	80	
W half of sec., SE qr, W half of NE qr, and SE qr of NE qr	11	do	do	600	
E half of sec., NE qr, W half of NW qr and SW qr	13	do	do	320	
				24,367,76	
259 E half of SE qr and SW qr of SE qr.	13	81	23	120	
NE qr of NE qr	15	do	do	40	
NE qr of SE qr.	19	do	do	40	
N half of section	23	do	do	320	
NE qr, N half of SE qr, and E half of NW qr	25	do	do	320	
SE qr of SW qr	31	do	do	40	
SW qr of SW qr	33	do	do	40	
E half of SE qr.	13	80	24	80	
N half of NW qr NE qr of NE qr, and SE qr	13	81	24	280	
E half of NE qr	23	do	do	80	
E half of NE qr, and NE qr of NW qr	25	do	do	120	
W half of NE qr, SW qr of NW qr, and NE qr of SW qr.	27	do	do	160	
Lots Nos. 5 and 6	15	78	25	84.95	
Lots Nos. 4, 5, 7, and 8	29	do	do	142.67	
SE qr of NW qr, NW qr of NW qr, and W half of SW qr	7	79	25	172.93	
E half of NE qr	11	79	26	80	
NW qr of SW qr	13	do	do	40	
SE qr of SE qr	17	do	do	40	
N half of NW qr and SW qr.	19	do	do	260.83	
W qr of SE qr	31	do	do	40	
NE qr of SE qr and N half of SW qr	17	80	26	120	

In Fort Des Moines district.—Continued.

Parts of section.	Sec.	T'n.	R'ge.	Acres.	Remarks.
		N.	E.		
E half of SW qr	19	80	26	80	
E half of NE qr, SW qr of NE qr, and NE qr of SE qr	21	do	do	160	
E half of NW qr, SW qr of NW qr, and NW qr of SW qr	21	do	do	160	
NW qr of NE qr, NW qr of NW qr, and E half of SE qr	27	do	do	160	
E half of SW qr and SW of SW qr	29	do	do	120	
SE qr of SE qr and SE qr of SW qr	31	do	do	80	
S half of SE qr	33	do	do	80	
SW qr of NE qr and SE qr of SE qr	11	79	27	80	
E half of SW qr	13	do	do	80	
				27,989.14	
260 NE qr of SE qr	23	79	27	40	
W half of section	25	do	do	320	
SW qr of NE qr and N half of SE qr	25	do	do	120	
NE qr of NE qr	7	80	27	40	
W half of NE qr and E half of SE qr	9	do	do	160	
S half of SE qr	11	do	do	80	
W half of NW qr	17	do	do	80	
NE qr of NE qr	21	do	do	40	
NE qr of NE qr and W half of NW qr	27	do	do	120	
E half of NE qr and NE qr of SE qr	29	do	do	120	
W half of NW qr	35	do	do	80	
S half of SE qr	13	79	29	80	
N half of SW qr and SW qr of SW qr	1	80	29	120	
NE qr of NE qr, SE qr of SE qr, N half of NW qr, and S half of SW qr	3	do	do	282	
NE qr of NE qr	9	do	do	40	
NW qr.	9	do	do	60	
W half of NW qr	11	do	do	80	
SW qr of SE qr	33	81	29	40	
SW qr of SW qr	5	78	30	40	
N half of NW qr	35	81	30	80	
SW qr of NW qr	35	do	do	40	
SW qr of NW qr	25	79	31	40	
NE qr of SE qr	3	80	31	40	
N half of SE qr	35	81	33	30,311.14	

IN SIOUX CITY DISTRICT.

261 NW qr	27	89	47	160	

GENERAL LAND OFFICE,
October 25th, 1861.

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby reject the claim of the State of Iowa to the foregoing lands, as swamp, under the act of Congress approved September 28th, 1850, in accordance with the Secretary's decision of 8th February, 1860, the same not appearing to be swamp by the field notes and other evidences in the files of this office.

J. M. EDMUMNDS,
Commissioner.

262 No. 1.—*Defendant's testimony.*

Filed as evidence in open court April 18, A. D. 1865.
H. A. COPELAND, *Clerk.*

263 DEPARTMENT OF THE INTERIOR,
General Land Office, March 29th, 1865.

I, Joseph S. Wilson, Acting Commissioner of the General Land Office, do hereby certify that the annexed letters and papers on pages one to sixty, inclusive, are true and literal exemplifications of the original files and records of this office, as shown in the following schedule, to wit:

Pages 1 to 11: Printed copy of letter of Commissioner of General Land Office to registers and receivers, Feb. 11th, 1856. (Original on file in swamp land division G. L. O., with Secretary's letter of 13th Feb., 1856. No. 28,798 D.)

Pages 12 to 13: Printed notice, No. 550, date Dec. 21st, 1855. (Recorded proclamation, records, vol. 2, p. 379, G. L. O.)

Pages 14 to 15: Commissioner's letter to Secretary, July 15th, 1859. (Record in swamp land div., vol. 13, pages 501 to 503.)

Pages 16 to 19: Secretary's letter to Commissioner G. L. O., July 23d, 1859. (Original on file in swamp land div. G. L. O.)

264 Pages 20 to 25: Secretary's letter to Commissioner G. L. O., Feb. 8th, 1860. (Original on file in swamp land div.)

Pages 25 to 27: Secretary's letter to Commissioner G. L. O., Feb. 8th. (Original on file in swamp land div.)

Pages 28 to 30: W. T. Steiger, ag't to Commissioner, submitting list "C," &c., Sept. 7th, 1861. (Original with special file, No. 10, swamp div.)

Pages 31 to 47: List "C" of lands claimed for railroad, submitted by W. T. Steiger, ag't, Sept. 7th, 1861. (Original with special file, No. 10, swamp div.

Pages 48 to 51: Secretary to Commissioner, March 4th, 1862. (Original on file in swamp land div., No. 95,084 F.)

Pages 52 to 54: W. T. Steiger's letter to Commissioner, Jan'y 10th, 1862. (Original on file in swamp land div., No. 91,275, F.)

Page 55: Commissioner's letter to Secretary, Jan'y 11th, 1862, submitting W. T. Steiger's letter of Jan'y 10th, 1862. (Recorded vol. 17, swamp land div., page 26.)

Pages 56 to 57: John A. Dix to Secretary, Jan'y 27th, 1862. (Original with Secretary's letter of 4th Mar., 1862, swamp div.)

265 W. T. Steiger's (agent) letter to Commissioner, May 1st, 1862. (Original on file in swamp land div., No. 98,732, F.)

Page 59: Commissioner to W. T. Steiger, June 3d, 1862. (Recorded vol. 17, p. 142, swamp land div.)

Page 60: Commissioner to governor of Iowa, June 3d, 1862. (Recorded vol 17, page 142, swamp land div.)

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above-writtten.

JO. S. WILSON,
Acting Commissioner of the General Land Office.

266 GENERAL LAND OFFICE, *February* 11, 1856.

REGISTER AND RECEIVER AT ——— :

GENTLEMEN: You have been already furnished with copies of the public notice relative to "swamp and overflowed lands," issued from this office under date of 21st December last, and also with the form of affidavit required from contestants of the State's claim to lands alleged to have been erroneously selected under the act of Congress approved September 28th, 1850. In the letter by which said papers were accompanied, it was stated that further instructions on the subject would be furnished to you at an early day.

The purpose of this circular is to set forth in a brief and concise manner the several steps necessary to be taken by you in conducting cases of the nature contemplated by the public notice from their inception to their consummation; and a careful and steadfast adherence to the rules herein prescribed will be imperitively required of you. In the first place you are required to receive all affidavits offered to you, endorse upon them the date of their receipt, the name

267 and address of the party by whom filed, or his agent, and transmit them to this office.

These returns may be made at such times as shall best suit your own convenience, but shall not, in any case, be delayed longer than one month, because it is essential that all affidavits should be sent here for examination as early as possible, in order that if any are found to be defective, to refer to lands exempt from objection, to embrace tracts previously applied for, or present other difficulties, an opportunity for correspondence with the party, and for correction of the papers, may be afforded before the expiration of the time limited by the notice aforesaid.

When the prescribed time (six months from the date of said notice) shall have expired, you will be furnished with a complete list of all the lands relative to which affidavits have been filed, exhibiting the tract or tracts contested, the name of the contestant, the date of application and the order in which testimony is to be taken. This will be sent to you in duplicate, one copy to be retained in your possession as a guide to your own action, and the transmitted to the proper State authorities having control of the swamp land business, with a

notice, setting forth that under the instructions of this of-
268 fice you will, on a certain day, at least thirty days thereafter, at an hour and place to be designated, commence taking testimony relative to the lands, and continue the hearing from day to day until the business is concluded.

At the time of giving notice to the State authorities, you will also give or send notice to the several contestants, or the agents, whose names and residences you will find on the list, specifying therein the number of each particular case designated in the list furnished by this office, and the particular day on which it will be reached; this you must determine, as nearly as possible, by an examination of tho papers; and it is expected that you will exercise great care and discretion in the matter. The important interests involved in these cases demand this act at your hands, and your own labor will be materially lessened by a systematic and well-considered arrangement.

In the several States where the "swamp lands" have been donated to the counties, the lists will be prepared as accurately as possible, in view of the lack of information regarding their limits, so as to em-
brace all the lands in each county, and the cases numbered and
269 heard by you in regular order. The list furnished by this office will be your calendar, and you will proceed regularly through the same without preference or favor to any party, calling each case on the day specified in the notice. Upon good cause you may postpone the hearing of any case, but with the understanding that the same shall be put at the foot of the calendar, or heard at such times as shall not interfere with the rights or interests of parties awaiting your action.

Great discretion must be exercised, however, in granting postponements, and they should be seldom allowed, except by mutual consent of the parties in interest.

It will be required that at least ten cases shall be disposed of on each day, unless the same embrace so many tracts that the labor cannot possibly be discharged in connection with your other official duties. Whenever it may occur that a cases arises which cannot be fully heard without much expenditure of time, it would, perhaps, be advisable, with the consent of the parties, to take testimony out of the regular hours of transacting business, so as not to interfere with
the sytematic progress through the calendar.

270 The method of taking testimony will be as follows: On the day, and at the time appointed, you will give notice that you are ready to proceed with the case, specifying its number, calling the name of the contestant or his agent, and also the party to whom notice has been issued on behalf the State.

The evidence of the witnesses for the contestant must be first taken, reduced to writing, and the deposition subscribed in your presence. The agent or attorney for the State shall have the privilege of cross-examination; and when the contestant has signified the conclusion of his testimony, witnesses on behalf of the State's claim may be introduced and examined.

The following interrogatories and cross-interrogatories, copies of

which, printed for this special purpose, will be furnished you, must be propounded to each witness:

Interrogatories.

State your rank, age, and residence, and whether near the land in controversy.

Are you acquainted with the character of the soil in the quarter of the quarter of section , in township , of range , in the district of lands subject to sale at ?

271 Is your knowledge of that land based upon actual survey or upon a mere examination?

Have you been over and examined the lines of said lands, and the marks or designations on the corner posts or trees?

Were you familiar with that particular tract of land on or about the 28th of September, 1850? If so, state what was its character at that time; what has been its general character since, and what is its present character.

Is or is not said land susceptible of cultivation in grain or any other staple production, by reason of a swampy or wet character?

Is or is not said land susceptible of cultivation in grain or any other staple production, by reason of periodical and regular overflow?

State whether, to successfully cultivate said land, it would be necessary to use artificial means; if so, what, and to what extent.

What portion of land in question, from your survey or examination, did you ascertain to be dry and fit for cultivation, and what portion wet and unfit for cultivation?

What is the general character of the land in the section of country in which this tract is situated:

272 *Cross-interrogatories.*

Are you familiar with the mode and manner of surveying and marking the public lands of the United States?

Do you make your statements as to the character of this land from your own personal knowledge, or from the represention of others?

In making the survey or examination of this land, did you inspect such portion of its entire surface as would enable you, from your own knowledge, to state its general character?

State at what time or times during the year, if any, the land is subject to overflow, and from what cause.

Are you either directly or indirectly interested in the determination of this controversy?

273 This form of examination, which has been adopted after mature consideration, and which it is believed covers all necessary points, must not be departed from, except in special cases; as for instance, where witnesses are produced on both sides, whose statemants are directly at variance and equally entitled to credit. In all

instances it will be required that the questions shall be distinctly read to the witnesses, their answers reduced to writing in their presence, and the deposition subscribed to on the day appointed for the hearing, and in the presence of the parties in attendance. The credibility of each witness testifying must be certified by persons known to you in writing.

To the testimony taken in each case you will append a report setting forth the date of notice, the parties in attendance, and all material facts relative to the case; and this record, with your joint opinion on the merits of the evidence, you will transmit to the surveyor general for those States where that office still exists, for examination and decision. In States where the office of surveyor general has been abolished, each case, prepared as above required,
274 will be transmitted directly to this office. The absence of either party, at the time appointed, will not obviate the necessity of hearing the testimony offered by the party in attendance; and in all such cases your report must embrace evidence of the proper service of notice on the party failing to appear.

No case can be regarded as concluded until the rendition of a final decision by this office; neither can any entry or location be permitted until you are specially instructed to permit the same. The rules which govern this branch of the subject deserve brief notice.

Where lands have been selected for, but not approved by the State under the swamp law, or even where approved, when that approval has not been certified to the State authorities and your office, the successful contestant will acquire a preference right of entry. But where the lands have been approved, and certified copies of the approved lists issued from this office, no such preference right of entry can be acquired; lands so situated must be restored to market, and thirty days' public notice given before they can become again subject to private entry.

275 It may be proper to remark that the public notice and these instructions have no reference whatever to the States of Michigan and Wisconsin, where the "swamp lands" have been selected by the United States surveyor general from the field-notes in their respective offices.

With these rules, instructions, and remarks, the subject is entrusted to your care; and it is sincerely hoped that you will lend to this office your cordial co-operation in the endeavor to bring to a close this tedious and difficult business. A careful observance of these instructions will enable you to dispose of the cases in a brief period, and, it is hoped, in a manner satisfactory, not only to the authorities of the several States, but to parties seeking to acquire titles from the government.

Very respectfully, your obedient servant,

THOS. H. HENDRICKS,
Commissioner.

276 No. 550.

"Swamp and overflowed lands."—Public notice.

Pursuant to the instructions of the Secretary of the Interior, public notice is hereby given, that, in order to bring to a close the business under the act of Congress approved September 28, 1850, entitled "An act to enable the State of Arkansas, and other States, to reclaim the 'swamp lands' within their limits," and at the same time afford to parties who claim that portions of the lands selected under said law are dry and fit for cultivation, an opportunity to introduce evidence, all lands so selected, to the approval whereof no objection be made within six months from the date hereof, will be certified and patented to the States.

Such objections as are contemplated by the above must be made under oath and filed with the register and receiver of the proper land office for transmission to the General Land Office. The necessary forms for affidavits are in the hands of said officers.

277 The following classes of land are exempt from objection, to wit:

1st. Lands entered with cash, or located with military bounty-land warrants or scrip, after the passage of the act of 28th September, 1850, and prior to the passage of the act of 2nd March, 1855, "for the relief of purchasers and locaters of swamp and overflowed lands."

2nd. Lands already patented to the State under the swamp law.

In all cases where objection is raised testimony must be taken before the register and receiver of the land office, at such time after the expiration of said six months as they may appoint, with the consent of the Commissioner of the General Land Office.

The lists of swamp and overflowed lands are open to inspection during the regular business hours of the Land Office.

Given under my hand, at the city of Washington, this twenty-first day of December, 1855.

THOS. A. HENDRICKS,
Commissioner General Land Office.

278 GENERAL LAND OFFCE, *July 5th*, 1859.

HON. JACOB THOMPSON, *Sec'y of the Interior*:

SIR: In your communication of the 15th April last, in reply to one from this office of the 5th of the same month, relating to the conflict between the swamp grants and the grants in aid of the construction of railroads, the policy is not approved which prevailed under the circulars of Dec. 21, 1855, and Feb'y 11, 1856; but this office is instructed, that "if the certification of any such tracts as swamp lands enuring to a State under the act of September 28th, 1850, is contested by the production of any proof or information sufficient to create a doubt as to the actual character of the tract or tracts, you will be under the necessity of obtaining, through the [the] proper officers, such authentic evidence or official reports as will enable you to decide."

In view of this extract, I have the honor to present for your consideration the following:

Under the public notice of Dec. 21, 1855, numerous affidavits
279 were filed by individuals to contest the claim of the State to lands selected as swamp; and while the cases were being prepared here with the purpose of referring them for investigation to the local land officers, the act of 3d March, 1857, intervened, "which, it was held, brought the case to a close and required the lands to be approved and patented to the States."

On referring to such affidavits from Iowa, in acting upon the lands in controversy between the swamp and railroad grants, it has been ascertained that a large number of the tracts are in the granted sections within the 6-mile limits of the railroad grants; and also in the sections selected by the governor's agents within the 6 and 15 mile limits, and that they are represented in those affidavits specifically to be dry lands.

It is respectfully submitted whether these affidavits may not be sufficient "to create a doubt" as to the character of the lands, and bring the premises under the terms of your orders; and, if so, whether the action proposed to be taken in my letter of the 5th April should not be carried out; and upon this point your instructions are respectfully requested.

With great respect, your ob't servant,

THOS. A. HENDRICKS,
Commissioner.

280 DEPARTMENT OF THE INTERIOR,
Washington, July 23d, 1859.

SIR: Your report of the 15th instant has called my attention to the fact that affidavits were on file in the General Land Office on the 3d March, 1857, which had been presented under circulars of the 21 Dec., 1855, and 11th Feb'y, 1856, in which it is represented that certain tracts of land were dry, which had been selected as swamp lands under the grant of 28th September, 1850, and carried upon lists which had been regularly, and were on file in your office, on said third day of March, 1857. These tracts are also of the legal designation of lands which would fall to the State of Iowa under grants for railroad purposes. The confirmation of the selection of swamp lands has for some time been suspended; and the question arises, what course shall be adopted in the adjustment of the two grants as regards these particular tracts of land.

It is a very obvious remark, but quite important in this connection,
that the State is entitled to all these tracts, under one or the
281 other of the two grants. The only interest or object which the United States and its officers can have is a faithful administration of the laws making the grant. This we shall not accomplish by delay in administering one because of the existence of the other. Should the adjustment be delayed for investigation to be made, we could only expect thereby to avoid a few mistakes, which, if made, we may assume would not seriously injure any one; and to the State

and the United States the delay would be a greater detriment than any number of errors that can occur.

The act of Congress of the 3d March, 1857, confirmed all selections under the swamp grant which had been regularly reported and were on file in your office at that date, so far as the lands remained vacant and unappropriated; and we need not now inquire whether lands so selected and reported were or were not swampy on the 28th Sept., 1850, if they remained vacant and unappropriated on the 3d March, 1857. If, therefore, the title of the State, under the grants for railroads to the particular tracts now under discussion, had not
282 vested prior to the 3d March, 1857, I think Congress has decided that the land should pass under the swamp grant; and with cases of that kind you may at once proceed with the certification and patenting of the tracts. If, however, the title under the grants for constructing railroads to any of the tracts under discussion had vested prior to 3d March, 1857, such tracts were appropriated, and they should not be carried upon the swamp lists, unless they were in fact swamp lands on the 28th Sept., 1850. The question of the description of such tracts, whether swamp and overflowed, or otherwise, at the date of the swamp grant, you may examine and determine upon the record, papers, and affidavits now on file, and if you find that they were of the description of lands granted by the act 28th Sept., 1850, you will so report; but if the record and evidence before you will not warrant that decision, the selection as swamp may at once be rejected, and the lands may be carried upon the lists enuring under the grants for constructing railroads, and the title of the State, under these grants, fully recognized.

283 The above remarks, it is believed, are entirely consistent with the position the department has maintained since the 3d March, 1857, and are merely in exemplification of the views embodied in my letter to you of the 15th April last.

Very respectfully,

J. THOMPSON, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, Feb'y 8th, 1860.

284 SIR: In reply to your communication of the 4th and report of the 21st ultimo, relative to swamp selections in Louisiana, which conflict with railroad grants, I have to state, that it appears to me that my decision of the 23d July last furnishes a rule for the action of your office in cases of conflict wherein swamp selections had been made and reported to your office prior to the 3d March, 1857.

It is true that in my letter of the 12th August, 1858, I approved the suspension of action upon the cases of conflict in Louisiana, when lands that had been embraced in swamp lists that were on file on the 3d March, 1857, were found also to lie within railroad grants which had been vested prior to that date, until the General Land Office could determine whether such lands ought to be certified to the State under the R. R. grant of 3d June, 1856, or the swamp grant. This may have been regarded as looking to an investigation into the question of the

swampy or dry condition of the land on the 28th Sept., 1850, or the 2nd March, 1849; but as case after case arose, and delay in carrying out the conflicting grants appeared to threaten greater evils
285 than those likely to arise from mistakes, in my letter of the 22d July last I informed you, in substance, in reference to swamp selections on your files, on the 3d March, 1857, that if a title under the [the] railroad grant had not vested prior to that date, my opinion was that Congress, by the act of that date, had decided that the title should pass under the swamp grant. On the other hand, if the title, under the railroad grant, had vested prior to that date, the land office might proceed to decide as to the swampy character of the land upon the field notes of the surveys, and the papers on file and of record on the 3d of March, and if the claim of the State under the older grants was satisfactorily established, to affirm the title under that grant; but if the swamp claim was not satisfactorily sustained, to certify the title under the railroad grant.

The conflicts which existed on the 3d March, 1857, we were compelled to settle according to the law of that date, but that law is retrospective only in its operation. Since that date we are left to administer the swamp and railroad grants solely under the laws making them; and as the swamp selections are made under the direc-
286 tion and supervision of the departments, and approved by the Secretary of the Interior, it is clearly within our authority to adopt such a policy or course of action in the administration of the grant as will give effect to the laws of the United States, prevent embarrassments in conducting the business of the General Land Office, and most effectually do justice to the State's interests.

Confining the following remarks to cases wherein the claim under the swamp grants is based on selections made and reported to the General Land Office on or subsequent to the 3d March, 1857, I would remark—

First, in cases in which the swamp selections have been made and reported prior to the definite location of a railroad route, and the lands fall within the six-mile limits of the line of road, your office should proceed in the usual and regular manner, and determine, from the records and files of the General Land Office, whether the tracts did pass to the State under the swamp grant. Should you decide in the affirmative, the title to the selected tracts should be completed under the swamp grant; but if you are not warranted in making such affirmative decision, the swamp claim may be rejected,
287 and the title certified to the State under the later but more specific grant.

Second. In that class of cases in which a title to lands within six miles limits of a railroad line has vested in a State under a railroad grant, the surveyor general should not thereafter admit or report selections of the same tracts or swamp lands. The swamp grants may be indeed the earlier, but the railroad is more specific—the title under it has been fully vested, and it should be fully recognized, even if the land was of such description as to fall under the swamp grants of 1849 or 1850. The effect of the latter grant is at most only to

change the use for which the grantee receives the land. I will not call in question the power of Congress to make that change. Where the State accepts the latter grant, and proceeds to complete her title under it, she has assented to the change, and both the grantor and grantee appear to be concluded by their voluntary yet concurrent action.

Third. When lands lie between the six and fifteen-mile limits of a located railroad, but have never been listed and approved to the State under the provisions of the railroad grant, so as to vest
288 that title, and the same lands fall within the description granted in 1849 and 1850, for drainage and levee purposes, the State appears to have the right to claim title under either grant; and if she is so claiming under both, I think we may examine the claim under the older grant, and if that be satisfactorily, approve and patent the land; but if not satisfactorily, reject the same and proceed under the later grant.

After indemnity lists have been approved and transmitted to the State authorities, the lands therein are no longer liable to selection or report as swamp lands; and any selections that may have been made thereof may be rejected. Where the department has fully executed one grant, its officers should cease all action under another grant of the same lands to the same grantee.

And where lands between the six and fifteen-mile limits of a railroad which has been located are by executive order withheld from pre-emption and ordinary private entry, in order to facilitate the adjustment of a grant to a State for railroad purposes, I think that the State authorities, from respect to the action of the State as well as to that of the United States, ought to waive any right which
289 she may have to make selections of the withheld tracts under the swamp grants.

Should any State persist in that policy, and bring thus upon your office the evils which were sought to be avoided by the withdrawal of the lands, it may be a question whether the withdrawal of such lands within her limits should not be removed, and the lands left in market whilst the adjustment of the railroad grants is progressing.

Very respectfully, your ob't servant,

J. THOMPSON,
Secretary.

The COMMISSIONER *of the General Land Office.*

290 DEPARTMENT OF THE INTERIOR,
Washington, Feb'y 8th, 1860.

SIR: Herewith I return the papers from the State of Iowa, submitted with your report of the 25th inst., and relative to the conflicts between swamp and roilroad claims to lands in that State.

I also enclose a letter of Hon. S. R. Curtis of Iowa, enclosing one to him written by Wm. Lawrence, esq., Bellfontaine, Ohio, relative to certain tracts entered in 1857 by him at the Fort Dodge land office.

My decision of this date in the Louisiana conflicts will, it is believed, furnish you a rule of action in the majority of cases.

The other class of cases is that wherein subsequent to the 3d March, 1857, parties have made private entries of lands, and after the entries of the lands have been selected or claimed for the State under the swamp grant. Now, in such cases, I think the entries, if otherwise unobjectionable, are entitled to confirmation and patent,
unless the field notes of survey indicate that the land was
291 swamp and overflowed. In that case the claimants under the
entries appear to be entitled to produce evidence that the land was dry, but failing in such proof their entries should be cancelled.

Where the field notes do not indicate swamp lands, the swamp selections should be rejected, and the lands patented to the purchasers.

Very respectfully, &c.,

J. THOMPSON,
Secretary.

The COMMISSIONER *of the General Land Office.*

292 WASHINGTON, *Sept. 7th*, 1861.

Hon. J. M. EDMUNDS, *Comm'r Gen'l Land Office:*

SIR: I have the honor to submit herewith a list, marked "C," of lands in the Council Bluffs district, which were suspended for swamp in the adjustment of the grant to the State of Iowa, made by the act of May 15th, 1856, in aid of the construction of the railroad "from Burlington, on the Mississppi river, to a point on the Missouri river, near the mouth of the Platte river," known as the "Burlington and Missouri River railroad," and now claimed for said road. I beg leave to repeat, as stated in my letter of the 6th instant, that I have examined all the evidence with care, referring to each tract in the list, and have noted the results in the column headed "classification," as explained at the foot of the list. As will be seen, the great bulk of the lands, being there marked "C," are found to be meadow
or bottom lands fit for cultivation, and in fact among the richest
293 and best lands in the State, all of which can be readily attested
by reference to the transcript of field notes in the General Land Office.

The balance of the lands (not marked G) are made up of mixed tracts, part fit and part unfit for cultivation, being excluded by me from class G if only one boundary was described in the field notes to be inferior. In order to facilitate the examination of all such tracts, I transmit herewith literal copies or abstracts, No. 3, from the field notes of the section boundaries, which can be readily verified from the originals, as I have given the volume and page for each. I also submit a book of 41 township diagrams, showing all the topography reduced from the official maps. These will aid greatly in the examination to be made, showing, as explained thereon, the precise localities of all the lands claimed, and the disposition of the contiguous lands of similar character, together with other important particulars bearing on the whole subject, especially the tracts contested and not swamp by affidavits filed in 1856, which being prior to 3d March, 1857, are admissable evidence under the ruling of the department in this matter.

294 I respectfully ask that early action may be ordered on the above list, and that such tracts as may be rejected for swamp lands under the act of 1850 may be approved without delay for the road, as it is very desirable that they may be available to the company at the earliest day practicable. May I also ask that these lands may, for obvious reasons, be approved in a separate list.

I am, with great respect, your ob't servant,

WM. T. STEIGER,

Agent, &c.

295 (C.)

List of tracts selected for swamps, suspended in the adjustment of the grant to the State of Iowa, by the act of 15th May, 1856, for the "Burlington and Missouri River railroad," and claimed for said road.

COUNCIL BLUFFS DISTRICT.

Limit.	Parts of section—tracts.	Sec.	Town.	Rng.	Acres.	Date of swamp selection.	Classification.	
6	NE NE	3	71	34 W	37.36	Sep. 20, 1854	B D × T C Cr.	Approved to Rail R.
6	SW NE	do	do	do	40.00	do	B D × T C Cr	
6	NE SW SW SW	do	do	do	80.00	do	B M × C Cr...	
6	SE SE	5	do	do	40.00	do	B M T C Cr... W ½ SW†	
6	NE SE W half SW	7	do	do	134.95	do	B M × T C Cr	*NE SE SW SW
6	NW NE	31	72	do	40.00	do	B D C Cr	
6	SE SW	do	do	do	40.00	do	B M × T C Cr.	
6	SW NE	35	do	do	40.00	do	B D × C Cr...	
6	SE NE	do	do	do	40.00	do	B M × C Cr...	*SE NE. Not swamp selection. Tract books correct.
15	E half NE NW NE	13	73	do	120.00	do (N½ NE)	B D T Cr	
15	NW NW	do	do	do	40.00	Sep. 20, 1854	B M × T Cr	
15	SE SE	15	do	do	40.00	do	B M E Cr.	
15	NE qr	27	do	do	160.00	do	B M C Cr	
15	N half NW	do	do	do	80.00	do	B M × C Cr	
15	SW NW	23	do	do	40.00	do	B M × T F Cr.	
15	S half SW	29	do	do	80.00	do	B M × C Cr ..	
15	NE NE	31	do	do	40.00	do	B D C Cr	
15	W half SE	do	do	do	80.00	do	B M E T C Cr.	
15	W half of E half	3	68	35	62.71	Aug. 31, 1857	A M × T E Cr.	
15	SW NE	25	69	do	40.00	do	A M × T Cr ..	
15	SW SW	do	do	do	40.00	do	A M × T E Cr.	
15	NE NE S½ NE	35	do	do	120.00	do	A M × T E Cr	
15	NE SE	do	do	do	40.00	do	A M T E Cr. ..	
15	SE SE	do	do	do	40.00	do	A D E Cr.....	Not swamp selection. W½ SE selected. Corrected tract books
6	W half SW	1	71	do	80.00	Sep. 20, 1854	B M × C Cr ...	
6	NE NW SW NW SE SE	11	do	do	120.00	do	B M C Cr	
6	S half NE N half SE	do	do	do	160.00	do	B M × C Cr. ..	
6	W half N W	15	do	do	80.00	do	B M × Cr	
6	W half NE	17	do	do	80.00	do	B D C Cr	
6	E half NE NE SE	do	do	do	120.00	do	B M C Cr	
6	SE SW	17	69	35	40.00	Sep. 20, 1854	B M × Cr	
6	SE SE	19	do	do	40.00	do	B M × C Cr ..	
6	SE SW SW SW	31	do	do	80.00	do	B M Cr.	
6	N half SE	do	do	do	80.00	do	B M × Cr	
6	SE SE	do	do	do	40.00	do	B M × T Cr...	
6	E half SE SW SE	11	72	do	20.00	do	B M × C Cr...	
6	NW SE	do	do	do	240.00	do	B M C Cr ....e	
6	NW NE	15	do	do	140.00	do	B D × Cr	
6	S half NE NW SE	do	do	do	120.00	do	B M × C G...	
6	S half NW	do	do	do	80.00	do	B D × E C Cr.	
6	N half NE N half NW	29	do	do	160.00	do	B M × C Cr...	
6	S half NE S half NW	do	do	do	160.00	do	B M C Cr	
15	E half NW W half SW	7	68	36	183.10	do	B M C† Cr.....	W½ SW
15	E half NW NE SW	9	do	do	120.00	do	B M T × Cr...	
15	S half NE W half SE NE SE	do	do	do	200.00	do	B M G	
15	SW NE	1	69	do	40.00	do	B D × T C Cr	
15	SE NW	do	do	do	40.00	do	B D C Cr	
15	E half SW	do	do	do	80.00	do	B D T C† Cr...	SE SW
	Amonnt forward				3,818.12			
	Amount bro't forward				3,818.12	Sep. 20, 1854. do	B D T E C Cr.	
15	SW SW	1	69	36	40.00	do	B D P Cr	
15	NW SW	do	do	do	40.00	do		

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town.	Ra'g.	Acres.	Date of swamp selection.	Classification.	
15	W half SE SE SE.....	1	69	36	120.00	Sep. 20, 1854.	B M Cr.....	B M × T C C
15	NE qr.....	5	do	do	141.00	do	B M E C* G...	*S half SENW SE
15	SE qr.....	do	do	do	160.00	do	B M C* G.....	*NW NW
15	W half of sec.....	9	do	do	320.00	do	B M × T C G.	
15	SE NE.....	23	do	do	40.00	do	B M C G.....	
15	W half NE NW SE....	do	do	do	120.00	do	B M T C Cr. ..	
15	SW SE.....	do	do	do	40.00	no	B M C Cr*.....	
15	SE NE W half SE NE SE.....	27	do	do	160.00	do	B M × T C G.	*NW SE SE NE
15	SE SE.....	do	do	do	40.00	do	B M × T C* G.	*E half SESE NE
6	E half NE E half SE ..	5	70	do	160.09	do	B M T.....	Road
6	N half SW.....	9	do	do	80.00	do	B M × T C....	Road
6	E half NE.....	17	do	do	80.00	do	B M T E C....	Do
6	E half NW.....	21	do	do	80.00	do	B M E	Do
6	W half SE SE SE.....	do	do	do	120.00	do	B M T C.....	Do
6	E half SW	do	do	do	80.00	do	B M C	Do
15	W half NE NW SE....	29	do	do	120.00	do	B D C	Do
15	SW SE.....	do	do	do	40.00	do	B M × T E C .	Do
15	NE NE E half SE.....	do	do	do	120.00	do	B M C	Do
15	NE NW SW SW.....	33	do	do	80.00	do	B M × T C ...	Do
15	SE NW SE SW.....	do	do	do	80.00	Jan. 8, 1867.	A D Cr	Do
6	E half SE	9	71	do	80.00	do	A D G.....	Do
6	E half SE.....	21	do	do	80.00	do	A M × T E Cr	
6	W half NW NE NW ..	23	do	do	120.00	do	A M E Cr	
6	NE SE.....	27	do	do	40.00	do	A D × G	
6	SW SE.....	21	72	37	40.00	do	A D E G.....	
6	NE NW SE SW	9	71	37	80.00	do	A D × E Cr...	
6	SE NW NE SW	do	do	do	80.00	do	A D E Cr	
6	W half NE.....	29	do	do	80.00	do	A D × G.....	
6	NE NW.....	do	do	do	40.00	do	A D × Cr.....	
6	W half NE	33	do	do	80.00	do	A D T E Cr....	
6	NE SW	do	do	do	40.00	do	A M × Cr.....	
15	SE SE.....	17	74	do	40.00	do	A M × Cr	
15	N half NW.....	17	do	do	80.00	do	A M E Cr.....	
15	SW SW	do	do	do	40.00	do	A M × Cr.....	
6	W half NE E half SW.	7	71	38	160.00	do	A M ...Cr	
6	W half SW	do	do	do	77.89	do	A D × E Cr...	
6	NW NE	17	72	do	40.00	do	A D × E Cr...	
6	NE SW SW SW.....	29	do	do	80.00	do	A D × E Cr...	
6	NW SW.....	do	do	do	40.00	do	A M Cr.....	
6	SW NE E half SW....	31	do	do	120.00	do	A D Cr.....	
15	NW NE	13	73	do	40.00		A M Crr	
6	SW SW	31	do	do	36.65		B D C G.....	
15	NW NW.....	5	69	39		Sep. 20, 1854.	B M × C G	
15	E half NW S half NE E half SE.....	do	do	do		do	B M C G.....	
15	N half NE SW qr, W half SE SW NW....	do	do	do	607.94	do	B M × C G...	
15	E 5alf SE	7	do	do	80.00	do	B M × T C Cr.	
15	SW SE SE SW	do	do	do	80.00	do	B M × T C Cr.	
15	SW SW	do	do	do	36.76			
15	N half sec NW SE N half SW.....	do	do	do	433.88	do	B M C Cr	
15	E half NW SW NW SW SW	1	70		159.10	do	B M × Cr.....	
	Am'nt carried forward.	....	....	.....	8,991.93			
	Am't bro't forward	....	....	.....	8,991.93			
15	E half SW	1	70	39	80.00	Sep. 20, 1854.	B M Br.	
15	W half NW NE NW ..	13	do	do	120.00	do	B M × C Gr...	
15	SE NW.....	do	do	do	40.00	do	B M C Cr.....	
6	SW NE NW SE	1	71	do	80.00	Jan. 8, 1857.	A D G.....	
6	SW SE.....	do	do	do	40.00	do	A M × G.....	
6	SW NW	17	do	do	40.00	do	A M × E Cr...	
6	SE NW.....	do	do	do	40.00	do	A D × E Cr...	
6	E half NE	19	do	do	80.00	do	A M × E Cr...	
6	SW SE.....	11	72	do	40.00	do	A M Cr.....	
6	NE SW.....	23	do	do	40.00	do	A M × Cr.....	
6	NW SE.....	27	do	do	40.00	do	A D Cr.....	
15	SE NE SW SE S half SW.....	5	69	40	160.00	Sep. 20, 1854.	B D × T C Cr	
15	NE SE	do	do	do	40.00	do	B D × E T C Cr.	

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town	Rge.	Acres.	Date of swamp selection.	Classification.	
15	NW SE	5	69	40	40.00	Sept. 20, 1854.	B D T E C Cr.	
15	N half NW	7	do	do	83.56	do	B D C Cr.	
15	SW NW	do	do	do	43.97	do	B D × C Cr.	
15	NW NE	do	do	do	40.00	do	B D E C Cr	
15	NE NE	do	do	do	40.00	do	B D × E C Cr	
15	NE NE NW SE	1	70	do	79.94	do	B D C Cr	
15	SE NE E half SE SW SE	do	do	do	160.00	do	B D × C Cr.	
15	E half SW SW SW SW NE NW NW	13	do	do	200.00	do	B D C G	
15	E hal NW SW NW NW SW	do	do	do	160.00	do	B D × C G	
15	NE qr W half SE E half SW	23	do	do	320.00	do	B M × C G	
15	SE NE N half SE SW SE SE SW	27	do	do	200.00	do	B M C	Road
15	SE SE	do	do	do	40.00	do	B M C	Road
15	S half NE W half SE SE SW	33	do	do	200.00	do	B M C	Road
15	E half SE	do	do	do	80.00	do	B M C	Road
6	N half NE SW NE N half NW							
6	SE NW SW SW	5	72	do	226.96	Sep. 20, 1854	B M C† G	†N half NW SE NW
6	NE qr E half SE E half SW NE NW	7	do	do	360.00	do	B M C G	× Except E half SE
6	W half NW SE NW W half SW	do	do	do	197.88	do	B M × C Cr.	
6	E half NE	17	do	do	80.00	do	B D C Cr.	
6	W half NW	do	do	do	80.00	do	B M C Cr.	
6	NE NE SW NW	19	do	do	80.84	do	B M C Cr.	
6	W half NE SE NE E half NW NW NW	do	do	do	241.09	do	B M × C Cr.	
15	E half NW W half SW NE SW	13	73	do	195.23	do	B M × C Cr.	
15	SE SW	do	do	do	40.00	do	B M × C Cr.	†W half NW
15	W half NW NW SW	3	do	do	115.85	do	B M × C Cr.	
15	SW SW	do	do	do	40.00	do	B M G	†NW qr W half SW
15	W half sec.	9	do	do	320.00	do	B M C† Cr.	
15	E half sec.	do	do	do	320.00	do	B M × C G	
15	NE SE	11	do	do	40.00	do	B M F Cr.	
15	S half SE	do	do	do	80.00	do	B M × F C Cr	
15	N half NW S half NE	15	do	do	160.00	do	B M × C G	
15	S half sec. S half NW	do	do	do	400.00	do	B M C G	
15	E half SW W half SE	17	do	do	160.00	do	B M × G	
15	SE SE	do	do	do	40.00	do	B M C G	
15	N half sec.	21	do	do	320.00	do	B M C† G	
6	S half sec.	do	do	do	320.00	do	B M × C† G	†SW qr
6	NW qr NW NE N half SW	29	do	do	280.00	do	B M C† G	†NW qr N half SW
6	SE qr E half NE SW NE SE SW	do	do	do	320.00	do	B M C† G	†SE SW
	Amount carried forward				15,937 25			
	Amount brought forward				15,937 25			
6	NE NE SW NE NW SE E half SW	31	73	40	200.00	do	B M × C† G	SW NE NE NE
6	NW qr W half SW E half SE SW SE NW NE	do	do	do	380.44	do	B C† G B M C†	†S half NW NW NE
15	W half NE E half SE NW SE	15	74	do	200.00	do	B M × G	
15	SE NE	do	do	do	40.00	do	B M F E Cr.	
15	SW SE	do	do	do	40.00	do	B M Cr.	
15	E half NW SW NW	21	do	do	120.00	do	B M C† G	†SE NW
15	SW NE SE qr	27	do	do	200.00	do	B M C† G	† SE qr
15	E half SE	33	do	do	80.00	do	B M G	Road
15	NE qr	5	69	do	153.32	do	B M × C	B W C
15	NW qr W half SE NE SE	do	do	do	273.48	do	B M × C	Road

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town	Rng.	Acres.	Date of swamp selection.	Classification.	
15	SW qr SE SE.....	5	69	41	200.00	Sept. 20, 1864.	B M C.....	Road
15	SE NE NE SE.....	7	do	do	80.00	do	B M C.....	Road
15	E half NE SW NE N half SE SW NW SW qr.....	9	do	do	400.00	do	B M C.....	Road
15	S half SE.....	do	do	do	80.00	do	B M × C.....	Road
15	S half NE S half SE S half NW S half SW.	11	do	do	320.00	do	B D C G.....	Road
15	N half SE N half SW.	do	do	do	160.00	do	B D × C G..	Road
15	NW qr W half SW....	3	70	do	234.83	do	B M G.....	Road
15	W half NE W half SE NE SW NE NE....	5	do	do	222.95	do	B M × C.....	Road
15	N half NW SE NE E half SE W half SW SE SW.....	do	do	do	308.53	do	B M C.....	Road
15	E half NE.....	7	do	do	80.00	do	B M × C.....	Road
15	E half SE.....	do	do	do	80.00	do	B M C.....	Road
15	NE qr E half NW NW NW.....	9	do	do	280.00	do	B M × C.....	Road
15	SE qr SW NW E half SW NW SW.....	do	do	do	320.00	do	B M + C.....	Road
15	SW SW.....	9	70	do	40.00	do	B M E C.....	Road
15	NW NW.....	15	do	41	40.00	do	B M G.....	Road
15	NW qr SE SE W half SW NE SW.....	17	do	do	320.00	do	B M C.....	Road
15	W half NE SE NE NE SE W half SE.....	do	do	do	240.00	do	B M × C.....	Road
15	NE NE.....	do	do	do	40.00	do	B M × E C...	Road
15	E half SE SW SE.....	19	do	do	120.00	do	B M ×.....	Road
15	E half sec.....	21	do	do	320.00	do	B M C† G.....	†E half E half
15	W half NW.....	27	do	do	80.00	do	B M G.....	
15	NW qr NW SW SW SE.....	29	do	do	240.00	do	B M C.....	Road
15	W half NE NW SE E half SW SW SW...	do	do	do	240.00	do	B M × C.....	Road
15	NE NE SW SE	31	do	do	80.00	do	B M G.....	
15	SE NE E half SE.....	do	do	do	120.00	do	B M × G.....	
15	S half SE.....	33	do	do	80.00	do	B M C.....	Road
15	W half SW SE SW....	do	do	do	120.00	do	B M C.....	Road
6	NW qr NE SW.....	9	71	do	200.00	do	B M C.....	Road
6	W half SW.....	do	do	do	80.00	do	B M × C.....	Road
6	E half sec. SE SW.....	do	do	do	360.00	do	B W C.	Road
6	NW qr SW SW.....	11	do	do	200.00	do	B W C.	Road
6	NW NE SW SW.....	do	do	do	80.00	do	B M C.....	Road
6	W half NW.....	15	do	do	80.00	do	B W × T...	Road, W half SW NW NE
6	E half NW NW NE W half SW.....	do	do	do	200.00	do	B W C†.....	Road WE qr E half SW
6	E half NE SW NE SE qr E half SW.....	do	do	do	360.00	do	B M C ×.....	Road E half NE
	NE NE.....	17	do	do	40.00	do	B M ×.....	Road
6	E half sec. E half SW NE NW.....	21	do	do	440.00	do	B W C†.....	Road †E half
6	W half SW.....	do	do	do	80.00	do	B M × T.....	Road
	Amount carried forward.....	....	....	.....	24,590 80			
	Amount bro't forward..	....	....	.....	24,590 80			
6	W half sec W half NE.	27	71	41	400.00	Sept 20, 1854.	B M C G.....	Road
15	NW SE.....	do	do	do	40.00	do	B M C G.	Road
15	SW SE	do	do	do	40.00	do	B D C G.....	Road
6	SE qr E half NE E half NW E half.....	29	do	do	400.00	do	B M C.....	Road
6	NW SW.....	do	do	do	40.00	do	B D.....	Road
6	SE SE	31	do	do	40.00	do	B M E T G...	
15	N half NW.....	33	do	do	80.00	do	B W × T.....	Road
15	W half SW.....	do	do	do	80.00	do	B W ×.....	Road × W half NE
15	W half NE NE SW SE NW.....	do	do	do	160.00	do	B W C†.....	Road †W half SE SE SE E half NE
15	E half NE W half SE SE SE SE SW.....	do	do	do	240.00	do	B M C†.....	Road E half
15	NE SE.....	do	do	do	40.00	do	B M E C.....	Road †NW SE E half SE

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town.	R'ng.	Acres.	Date of swamp selection.	Classification.	
6	SE qr.	1	72	41	160.00	Sept. 20, 1854.	B M C† G.	†NW SE E½ SE
6	E half SW.	do	do	do	80.00	do	B D C G.	
6	E half NE E half SE SW SE.	13	do	do	200.00	do	B M × C.	Road
6	NW SE.	do	do	do	40.00	do	B M × E C.	Road
6	NW NE E half SW NW SW.	do	do	do	160.00	do	B M C.	Road
6	SW SW.	do	do	do	40.00	do	B M × C.	Road
6	SE NW.	19	do	do	40.00	do	B M T × G.	
6	SW NW.	do	do	do	40.87	do	B M T G.	
6	NE half NW SE E half SW.	23	do	do	280.00	do	B M × C.	Road
6	E half NW E half SE SW SE W half SW.	do	do	do	280.00	do	B M C.	Road
6	N half NE.	25	do	do	80.00	do	B M × C.	Road
6	W half sec SW NE.	do	do	do	36.00	do	B M C.	Road
6	SE NE.	do	do	do	40.00	do	B D C.	Road
6	NE qr E half SE.	27	72	41	240.00	Sep. 20, 1854.	B M C G.	
6	NE SW.	29	do	do	40.00	do	B D C G.	
6	SE SW.	do	do	do	40.00	do	B D × C G.	
6	W half SW.	do	do	do	80.00	do	B D × T G.	
6	NE qr N half SE SE SE	35	do	do	280.00	do	B M C.	Road.
6	NW NW E half SW.	do	do	do	120.00	do	B M × T C*	Road *E½ SW.
6	SW SE.	do	do	do	40.00	do	B M T C.	Road.
6	W half SW.	do	do	do	80.00	do	B M C.	Road.
6	SW SW.	19	73	do	35.17	do	B M E C G.	
15	W half NW.	15	74	do	80.00	do	B M × C G.	
15	NE SE.	21	do	do	40.00	do	B M × C G.	
15	E half SE SW SE.	29	do	do	120.00	do	B M × C G*	*S half SE
15	N half NE.	1	73	42	70.07	do	B D C G.	
15	SW NE S half SW.	do	do	do	120.00	do	B M C G.	
15	NE NE N half SE N half SW.	do	do	do	200.00	do	B M × C G.	
15	E half NE SW NE E half SW.	5	do	do	197.14	do	B M × C G.	
15	NW NE.	do	do	do	36.85	do	B M C G.	
15	E half NE E half SE.	11	do	do	160.00	do	B M C G.	
15	NW NW.	13	do	do	40.00	do	B M × G.	
6	E half NW SW SE.	19	do	do	120.00	do	B M G.	
6	W half NE NW SE SE SW.	do	do	do	160.00	do	B M × C* G	*SE SW w½ NE.
6	NE NE.	25	do	do	40.00	do	B M C G.	
6	NW NE.	do	do	do	40.00	do	B M × E C G.	
6	NE NW SW NE NW SE.	31	do	do	120.00	do	B M × G.	
15	W half NW.	33	74	do	80.00	do	B M C G.	
15	N half sec.	3	69	43	290.84	Jan. 8, 1857.	A M.	Road W ½ NE E ½ N W swamp E ½ NE W ½ NW.
15	Whole.	6	do	do	621.24	do	A M.	Road E ½ sec. E ½ SW sec. NW swamp W ½ NW NE NW W ½ SW.
	Am't carried forward.				31,442.98			
	Amount bro't forward.				31,442.98			
15	NW qr.	3	70	43	150.45	Jan. 8, 1857.	A M E.	Road W half sec. swamp E half fr. half sec.
15	Lot 1 SW NE.	do	do	do	103.38	do	A M E.	
15	Lot 2.	do	do	do	39.99	do	A M.	
15	E half SE E half SW.	do	do	do	160.00	do	A M.	
15	W half SW.	do	do	do	80.00	do	A M F.	
15	W half SE.	do	do	do	80.00	do	A M P.	
15	Lot 1 NE NE.	5	do	do	82.00	do	A M × E G.	
15	Lots 3, 4 SW SE.	do	do	do	140.25	do	A M × E G.	
15	E half SE.	do	do	do	80.00	do	A M × E G.	
15	S half sec. E half NE SW NE SE NW.	do 9	do	do	480.00	do	A M G.	
15	W half NW.	do	do	do	80.00	do	A M T G.	
15	NW half S half SW.	11	do	do	240.00	do	A M G.	
15	N half SW.	do	do	do	80.00	do	A M × G.	

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town.	Rng.	Acres.	Date of swamp selection.	Classification.	
15	N half sec.	15	70	43	320.00	Jan. 8, 1857.	A M G.	Road S half NE S half NW swamp N half NE N half NW.
15	S half sec.	do	do	do	320.00	do	A M P.	Road.
15	NW qr SE qr E half SW NW SW SW NE.	17	do	do	480.00	do	A M E.	Road.
15	E half NE.	do	do	do	80.00	do	A M.	Swamp.
15	Lots 1, 2, 3, 4 E half SW.	19	do	do	246.76	do	A M F G.	
15	NW qr NW NE.	21	do	do	200.00	do	A M.	Swamp SW ¼ W ¼ NE road NW ¼ SE ¼ E ¼ NE.
15	S half sec. E half NE SW NE.	do	do	do	440.00	do	A M P.	
15	N half sec. S half SE S half SW.	27	do	do	480.00	do	A M G.	
15	W half NW W half SW.	29	do	do	160.00	do	A M E.	Road E ¼ sec.
15	E half NW E half SW W half SE NW NE.	do	do	do	280.00	do	A M P.	W ¼ NW W ¼ SW
15	E half NE SW NE E half SE.	do	do	do	200.00	do	A M.	Swamp E half NW E ¼ SW.
15	NE qr SE NE.	31	do	do	200.00	Jany. 8, 1857.	A M P G.	E ¼ NE NW S ¼ sec. road.
15	NE NW NE SE lot 3 qr.	do	do	do	199.53	do	A M E G.	swamp W ¼
15	W half SE.	do	do	do	80.00	do	A M P E G.	NE.
15	W half sec. SE qr W half NE.	33	do	do	560.00	do	A M G.	Road.
6	NW qr.	1	71	do	139.46	Sep. 20, 1854.	B M.	Road.
6	W half SE.	do	do	do	80.00	do	B D.	Road.
6	Whole of.	3	do	do	591.24	do	B M C*.	Swamp SW SW balance road; *except SE NE E ¼ SE SW SW.
6	W half NW SE qr SW NE.	5	do	do		do	B W C*.	Road *SW NE SE ¼.
6	E half NW NE SW.	do	do	do	371.47	do	B W × C*.	Road *NE SW.
6	SE NE.	do	do	do	40.00	do	B M C.	Road.
6	NW SW.	do	do	do	40.00	do	B W × F C.	Road.
6	E half sec. E half NW NW NW.	9	do	do	440.00	do	B W C*.	E ¼ NE W ¼ SE swamp *NW SW SE NW E ¼ SE.
6	SW NW SW qr.	do	do	do	200.00	do	B M C.	Road W ¼ sec. E ¼ SE W ¼ NE.
6	N half NE N half NW.	11	do	do	160.00	do	B W G.	
6	SE qr NE SW.	17	do	do	200.00	do	B M C.	Road.
6	W half NW W half SW SE SW.	do	do	do	200.00	do	B W C.	Road.
6	NE NE.	19	do	do	40.00	do	B W × T E.	Road.
15	NW qr NW NE NW SW.	21	do	do	240.00	do	B M C*.	Road *NW SW and SW NW.
15	SW SW.	do	do	do	40.00	do	B W C.	Road.
15	SW NW SW SW.	27	do	do	80.00	do	B W ×.	Swamp.
15	NE qr NE SE.	29	do	do	200.00	do	B W C.	Road.
15	W half SE.	do	do	do	80.00	do	B W T C.	Road.
15	SE SE.	do	do	do	40.00	do	B W F C.	Road.
15	Whole frac.	31	do	do	1.65	do	B M.	Swamp.
15	NE NE.	33	do	do	40.00	do	B W.	Swamp.
15	NW NE.	do	do	do	40.00	do	B M E C.	Road.
15	S half NE SE NW SE qr NE SW.	do	do	do	320.00	do	B M C*.	Road *SE NE N ¼ SE.
	Am't carried forward.				41,069.36			
	Amount bro't forward.				41,069.36			
15	SE SW.	33	71	43	400.00	Sept. 20, 1854.	B M F.	Road.
15	W half SW SE SW.	35	do	do	120.00	do	B W P.	Road.
15	SW SE.	do	do	do	40.00	do	B W P E.	Road.
6	W half NE NE NE.	5	72	do	102.03	do	B D.	Road.
6	NW qr.	do	do	do	141.85	do	B M E C.	Road.

C.—*List of tracts selected for swamps, &c.*—Continued.

Limit.	Parts of section—tracts.	Sec.	Town.	R'ng.	Acres.	Date of swamp selection.	Classification.	
6	SW qr	5	72	43	160.00	Sept. 20, 1854.	B M C*	Road *W ½ SW.
6	SW NW NE	7	do	do	41.51	do	B M G	
6	W half SW NE SW	17	do	do	120.00	do	B M	Swamp SE ¼ Road SW ¼.
6	SE SW SE qr	do	do	do	200.00	do	B W	
6	NW qr N half SW	19	do	do	240.31	do	B M C	Road.
6	S half SW	do	do	do	79.84	do	B M T C	Road.
6	Whole of	21	do	do	640.00	do	B M C	Road.
6	SW SW	23	do	do	40.00	do	B M ×	Road.
6	N half NE	27	do	do	80.00	do	B M × C	Road.
6	S half NE E half NW	do	do	do	160.00	do	B M E C	Road.
6	S half sec. W half NW	do	do	do	400.00	do	B M C	Road.
6	E half NE W half SE NE SE	29	do	do	200.00	do	B M × C*	Road *NE SE W ½ SE S ½.
6	W half NE W half NW SW qr SE SE	do	do	do	360.00	do	B M *C	Road SE SE SW ¼.
6	E half NW	do	do	do	80.00	do	B W	Swamp.
6	NE qr	31	do	do	160.00	do	B M E	Road.
6	NE SE	do	do	do	400.00	do	B D	Road.
6	W half SE SE SE	do	do	do	120.00	do	B M T	Road.
6	Whole of	33	do	do	640.00	do	B M C*	E ½ NE E ½ SE swamp *W ½ sec. road W ½ sec. W ½ NE.
6	E half sec. S half NW	35	72	do	400.00	do	B M	Road.
15	E half NW	17	73	43	80.00	do	B D G	
15	E half SW	do	do	do	80.00	do	B D E G	
6	NW NW	19	do	do	41.30	do	B M E G	
6	S half NE E half SE	do	do	do	160.00	do	B M G	
6	W half NE W half SE	31	do	do	160.00	do	B M C G	
6	E half NE	1	72	44		do	B M P	Road.
6	Lot 1	do	do	do		do	B M P	Road.
6	Lots 2, 3	do	do	do		do	B M P	Road.
6	Lots 4	do	do	do	5, 42.95	do	B M T F C	Road.
6	SW SE	do	do	do		do	B M E C	Road.
6	W half NE N half SE SE SE	do	do	do		do	B M C*	Road *NE SE.
6	Lot 1	11	do	do	15.68	do	B M P G	
6	W half NE NW SE	13	do	do	120.00	do	B M C G	
6	NE SW	do	do	do	40.00	do	B M P C G	
6	NE NW	do	do	do	40.00	do	B M E C G	
6	E half NW	25	do	do	80.00	do	B M P C	Road.
6	W half NE W half SE NE SW	do	do	do	200.00	do	B M P E C	Road.
15	E half NE	13	73	do	80.00	do	B M G	
15	NW NE	do	do	do	40.00	Sep. 20, 1854.	B M × G	
15	NE SE	do	do	do	40.00	do	B M × F G	
6	Lots 2, 3	23	do	do	64.50	do	B M P G	
6	Whole frac	27	do	do	12.60	Sep. 20, 1854.	B M P G	
6	NE NW lots 1, 2, 3	35	do	do	121.27	do	B M P G	Worked approved, Feb'y 25, '59, in tract-books, is not approved lists correct tract-book.
	Total				47,663.20			

310 *Explanations.*

A.—Selected for swamp after the railroad right attached to the lands.
B.—Selected for swamp before do. do. do.
D.—Dry and high by the topography on the official township maps.
W.—Wet by do. do. do. do.
M.—Meadow bottom lands do. do. do.
X.—Cut by spring branch or other unnavigable water do.
P.—Pond on boundary or tract do. do. do.
T.—Timber on tract do. do. do. do.
F.—Field on tract do. do. do. do.
E.—Lands on which declaratory statements were filed indicating choice lands.
G.—Good lands by the field-notes and not unfit for cultivation.
C.—Contested and not swamp, by affidavits filed in 1856.

WM. T. STEIGER, *Agents, &c.*

WASHINGTON, *Sept. 7th*, 1861.

311 DEPARTMENT OF THE INTERIOR,
Washington, March 4th, 1862.

SIR: From your reports of the 2nd Dec. and 11th January last, and accompanying papers, and the letters of Hon. Jas. Harlan and Gen'l John A. Dix, herewith, it appears that the State of Iowa has sold certain lands in Mills county, as lands to which she derived title by the swamp grant, per act of Congress approved the 28th Sept., 1850, and that also through he assignee, the Mississippi and Missouri River Railroad Company, she now claims the same tracts as lands granted to her by the act of Congress of 15th May, 1856, for aid in constructing certain railroads.

By an investigation in the usual course, in your office, it is found the lands were not of the description of lands granted to the State by the act of Congress of the 28th Sept., 1850, and did not pass to the State under that grant. The correctness of your conclusion in this respect does not appear to be questioned.

It, however, appears that some of the lands have been improved by individual purchasers, who are anxious that the claim of title under the swamp grant should be recognized; and I am re-
312 quested by Hon. Mr. Harlan to indicate some action by the department or by Congress for the relief of such individual purchasers.

As Congress has undoubtedly already granted these tracts to the State by one of the laws above mentioned, and as conflicting claims have arisen under the two grants, I am not prepared to recommend that Congress shall direct that the title shall emenate by patent under the swamp grant, when your decision that the land was not of the description conveyed by that remains unimpeached, and the State appears to have a clear and complete title under the railroad grant.

The certification of the tracts as part of the railroad grant is now

demanded, and as there is no valid reason for a refusal or for further suspension, the usual lists should be prepared and transmitted. The individuals who have purchased from the State and improved particular tracts do not set up any claim under any other law of the United States, nor is it perceived that they have any rights that can interfere with the claim of the State under the railroad grant.

If their purchases were made and improvements commenced
313 before the State accepted the grant for railroad purposes, the improvements and interests of such persons might have been protected by their complying with the provisions of the act of the legislature of Iowa, passed July 14, 1856, conferring on persons who have made settlements and improvements and who should conform thereto a preference in purchasing from the State the title under the railroad grant, at the established price of two dollars and a half per acre to a quantity not exceeding one hundred and sixty acres.

It is not reported to me whether the sales of the tracts of the State as swamp lands were made prior or subsequent to the location of the line of the Mississippi and Missouri railroad; but however that may affect the titles of purchasers from the States under the two grants by Congress, it can have no bearing on the duty of this department to recognize the title through the railroad grant after the claim through the swamp grant has been ascertained to be invalid, the land itself not being of that description requisite to its being listed under the grant of September 28th, 1850.

314 If there any cases in which parties in interest aver that the tracts they claim were granted by the act of 28th September, 1850, and you have doubt in regard to the description of the lands, whether swampy or dry, and the governor of the State shall request a more full investigation before the tracts are certified under either gaant, I think that you might order such further investigation, after notice to parties in interest.

But where there is no doubt of the correctness of your conclusion, that the tracts were not of the description of lands granted by the act of 28th Sept., 1850, they should be listed and certified to the State under the railroad grant of 15th May, 1856.

The papers which accompanied your reports are now returned.

Very respectfully, your ob't servant,

CALEB B. SMITH, *Secretary.*

The COMMISSIONER *of the General Land Office.*

315 WASHINGTON, *January 10th*, 1862.

Hon. J. M. EDMUNDS, *Comm'r Gen'l Land Office*:

SIR: In behalf of the Mississippi and Missouri and the Burlington and Missouri River railroads, of Iowa, I beg leave to draw attention to the supplemental lists prepared in November last, at my request, of certain lands enuring to said lands which have all been permanently marked on the general tract-books of the office, and only await the approval of the Hon. Secretary of the Interior before transmitting the usual certified transcripts thereof to the governor of Iowa and the railroad companies.

The above lists, in part, embrace a small portion of the lands in "Mills county," Iowa, which were originally selected for swamp lands, but were suspended in the adjustment of the railroad grants some five years ago, for examination as to the true character of the lands, and which, after much vexatious delay, and a careful examination of the plats, field-notes, and other evidence in the General Land Office, as directed by the late Secretary in his letter of the 8th February, 1860, were found to be among the best and richest
316 lands in the State, were consequently rejected as swamp lands, and awarded to the railroad grant.

I have seen the communication from Mr. H. C. Watkins, through the Hon. James Harlan, to the Secretary of the Interior, which was referred to your office and was the subject of your report of the 2nd December last, from all which it appears that the State authorities have sold, under the swamp grant, some of those lands not yet approved as such, and that some of the purchasers now seek relief through the department, for which cause our railroad lists, embracing a body of lands not thus interfered with, are held back in the General Land Office, not by order of the Secretary, but only in the expectation that he would give some specific directions; but which, I am verbally informed, will not be done, since your report of the 2nd December makes no particular recommendation to elicit such order, and makes no mention of the pending application for the approval of the lands to the railroads and the supplemental list.

As there is no question now of the railroad title to these lands under the act of 15th May, 1856, I respectfully request that
317 the list may not be laid over on account of any supposed rights which individuals may allege to the lands, especially since by the forms of approval heretofore adopted they will all be subject to any valid interfering rights.

The railroads only ask that their claims may be put in a tangible form, which is all that the approval lists effect, being, in fact, only so much blank paper, if they really have no legal title to the lands; and on the other hand, if they have, then no action either of Congress or the executive officers can, I presume, set it aside or impair it.

I have it specially in charge from Gen'l John A. Dix, who is the president of one the roads named, to ask this of the department, and in view of the long delay, spreading over five years—from causes which it is unnecessary to enumerate—I most earnestly hope the [the] request will be granted, and that the lists referred to will be immediately submitted to the Secretary for his approval, and thus make a final disposition of the matter as far as the department is concerned.

I am, with great respect, your ob't servant,

WM. T. STEIGER, *Agent, &c.*

318 GENERAL LAND OFFICE, *January 11th*, 1862.

Hon. CALEB SMITH, *Secretary of the Interior:*

SIR: I have the honor to enclose herewith a copy of a letter of the 10th inst., from W. T. Steiger, esq., of this city, respecting certain lands, the subject of my report to you of the 2d ult'o, which I request may be considered in connection with said report.

I will remark that the railroad lists have been prepared by this office, but further action thereon has been suspended in view of my report referred to.

With great respect, your ob't servant,

J. M. EDMUNDS, *Commissioner.*

319 BALTIMORE, *January 27th*, 1862.

Hon. CALEB SMITH, *Secretary of the Interior:*

SIR: I understand through Mr. Steiger, the agent for our road, (the Mi. and Mo. R. R. of Iowa,) that the supplemental lists of certain lands enuring to the road, now prepared and ready for your approval, are held back in the General Land Office, because they embrace some tracts in "Mills county" of rejected swamp selections claimed by individuals under supposed titles acquired from the State of Iowa, and upon an inquiry pending before you through the Hon. Jas. Harlan, as to what, if any relief, it will be in the power of the department to extend to such purchasers.

I am advised that these lands were never patented to the States as swamp lands, and, together with a considerable body of other lands embraced in the prepared lists, have, by the action of your department since the date of the railroad grant, (15 May, 1866,) become a part of the road grant, past any action of Congress or the executive officers to change their status, whatever the State may have
320 done in selling them without a proper title, and that the purchasers, in a legal point of view, can only look to her for relief.

I therefore respectfully submit for your consideration, whether in view of the past delay, it would be just and fair that the railroads—the true grantees—should longer be kept out of their legal rights, and indulge the hope that you will, on examination of the case, find it convenient and proper to carry out the provisions of the act of Congress of the 15th May, 1856, by approving the railroad lists, and thus leave any fancied rights to be settled, if need be, outside of the department, where, it seems to me, they rightfully belong.

I am, with great respect, your ob't servant,

JOHN A. DIX,
Pres't Mi. and Mo. R. R. Co.

321 WASHINGTON, *May 1st*, 1862.

Hon. J. M. EDMUNDS, *Comm'r Gen'l Land Office:*

SIR: I respectfully ask to be informed whether it has not been and is now the uniform rule of the department, that in the adjustment of the swamp land grant of 28th September, 1850, any previous sales

and other dispositions of the lands selected by the State would be positively disregarded; and were not the State authorities duly apprized of the ruling, especially those of the State of Iowa?

Please also state the dates on which the authorities of Iowa were thus advised, including the earliest date, and permit me to have copies or extracts of the correspondence bearing on the rule referred to as regards that State in particular.

I am, with great respect, your ob't servant,

W. T. STEIGER,
Agent, &c.

322 GENERAL LAND OFFICE,
June 3d, 1862.

WM. T. STEIGER, *Washington City, D. C.*:

SIR: Referring to your letter of the 1st ultimo, I have to state that the enclosed is a copy of a letter this day addressed to the governor of Iowa, respecting the sales of lands claimed as swamp made prior to the issue of patents to the State. This letter is the first addressed to the executive of Iowa on the subject, although the principle has been uniformly held by this office, and communicated in various individual cases.

Very respectfully, your ob't servant,

J. M. EDMUNDS,
Commissioner.

323 GENERAL LAND OFFICE,
June 3d, 1862.

His Excellency the GOVERNOR OF IOWA, *Des Moines, Iowa*:

SIR: In view of the numerous cases presented to this office of parties claiming lands or purchasers from the State under the swamp law of the 28th September, 1850, which have not been patented to the State, I have the honor to say that this office has uniformly held that this class of lands should not disposed of by the State or other authority until by the terms of the law the title has been vested by the issue of the patents. A contrary course brings embarassments on the State, and retards the proper execution of the law by the department, which alone determines all the interests arising under the grant and the subsequent amendatory enactments.

With great respect, your ob't servant,

J. M. EDMUNDS,
Commissioner.

324 Supreme Court Iowa, June term, 1867.

Appeal from Fremont county.

FREMONT COUNTY
vs.
B. & M. R. R. Co. } No. 2,522.

Appeal from Mills county.

MILLS COUNTY
vs.
B. & M. R. R. Co. } No. 2,523.

These cases being identical in principle, and but little variant in their facts, will be jointly considered and determined. They are applications in chancery, in which the plaintiffs set up a paramount claim to certain swamp and overflowed lands therein described; with which it is charged the defendant is unlawfully interfering, and they ask that their title to and enjoyment of the same may be quieted.

This prayer, the court below, on hearing, granted, and the defendant appeals. Other facts essential to the development and adjudication of the causes will sufficiently appear in the opinion of the court.

RORER & STRONG,
For Appellant.
HARVEY, EWING & HALE,
For Appellees.

325 LOWE, *C. J.*:

The lands in controversy have a legislative history, Federal and State, to which it would be well to advert in advance of and as sheding light upon the question of priority raised between the parties.

They both claim the same lands under distinct grants by Congress to the State. The plaintiffs insist that they are swamp and overflowed lands, as they deduce their right to the same through the State under an act of Congress approved Sept. 28th, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits." The first section of this act, without reserve or condition, grants to the States all the lands of the description therein specified which shall remain unsold at the passage of the same. The second section declares what must be done by the Secretary of the Interior and the governors of the States in order to vest the legal of these lands in the several States. The 3d section lays down a rule to be observed in listing or selecting said lands, namely, that "in all legal subdivisions, the greater part of which is wet and unfit for cultivation shall be included in said list and plots, but where the greater part of a subdivison is not of that character, the whole of it shall be excluded therefrom."

This act does not point out the particular mode to be fol-
326 lowed by the Secretary in making the required lists and plats, nor how he was to obtain the information in order to comply with the rule above prescribed by Congress. It is manifest that this

information is not supplied by the field-notes of the original survey. A summary of objects and data required to be noted by the surveyor will be found stated on pages 716 717 of Lester's Land Laws. Among these, bearing upon the character of the land are 1st, general topography, whether level, rolling, broken or hilly; 2d, the quality of the soil, whether first, second, or third rate; and 3d, whether the bottom lands were wet or dry, and if subject to inundation, to state what depth.

A literal compliance with these directions by the surveyor, would fall far short of affording the requisite information to enable the Secretary to determine whether the greater part of a particular 40-acre tract of land was swampy or overflowed in such a sense under the act as rendered the same unfit for cultivation. If he did so from the field-notes, without more information, it would simply be conjectural. Congress thought best in its wisdom to establish the rule above specified as a guide to the Secretary, not limiting him in the sources of his information to the field-notes of the surveyor, but leaving it to his discretion to make the list and plats of these lands under that rule in the best way he could.

It is proper here to state that some time after the passage of the act September 28, 1850, granting swamp lands to the States,
327 some additional objects of topography were required to be observed and stated in the field-notes of the surveyor, in order to define more clearly the quantity and locality of such lands, and to show their distinctive character, whether swampy or otherwise subject to overflow to an extent that, without artificial means, they would be rendered unfit for cultivation; but this was after the lands in controversy had been surveyed. Lester's Land Laws, 718.

The manner and basis, therefore, upon which these lists and plates should be made as contemplated by the act were left open to the judgment of the Secretary of the Interior. In November following the passage of the law, J. Butterfield, then the Commissioner of the General Land Office, with the sanction, we are to suppose, of the Secretary, instructed the surveyor general of this State to make out lists of all the lands thus granted to the State under said act, remarking to him that the only reliable data in his possession from which such lists could be made out were the —— notes of the surveyors on file in his office, and that if the authorities of the State are willing to adopt these as the basis of those lists, he might so regard them. If not, and those authorities furnished him satisfactory evidence that any lands are of the character embraced by the grant, you will so report them, and he states what would be sufficient evidence in the premises,
328 namely, the affidavits of county surveyors and other respectable persons that understood and had examined the lines, &c. The Commissioner then states the general principles which should govern the surveyor general in making up these lists, both where the field-notes are the basis of his action, as well as where the State authorities shall conclude to have the surveys made to determine the boundaries of the swamp and overflowed lands, furnishes a form according to which the lists should be made, directing that one copy

of the same should be transmitted to the several land officers, and another to the General Land Office at Washington. In the same instructions the Commissioner directs that the lands selected should be reserved from sale, and after the selections should be approved by the Secretary of the Interior, the register should enter all the lands so selected in his tract-book as granted to the State by act of 28th Sept., 1850, being swamp or overflowed land.

These instructions were continued near ten years, with but little change, for the guidance of the surveyor general and the States in the selectlon of the swamp lands. For the confirmation of this statement the Secretary of the Interior, R. McClelland, in a letter addressed to the Commissioner of the General Land Office explanatory of the swamp-land act, dated November 20th, 1855, states, "that under it certain instructions were issued for carrying it into effect, embracing substantially these propositions; that where the field-notes of survey indicated the swampy character of the land, they were to be
329 regarded as conclusive of said character, and that where the land is claimed by the State as such, it shall be by selections made by duly authorized agents of the State, and accompanied by their affidavits that they have examined the said lands, and being acquainted with the mode of surveying the public land, that the greater part of each forty-acre tract included in such selections is swampy, &c." Lester's Land Laws, 521.

Again, on the 12th of January, 1858, the Secretary of the Interior, J. Thompson, addressed a letter to the Commissioner, Tho's A. Hendricks, inquiring whether in his, the Commissioner's opinion, in bringing to a close the grant of September 28, 1850, in cases of selections reported to his office since the 3d of March, 1857, and in cases where the selections yet remain to be made, the general instructions of November, 1850, were sufficient and should be adhered to, or should new and additional regulations be adopted.

In reply to this inquiry the Commissioner first re-states the substance of those instructions as follows:

"In all cases where the plats and field-notes represent the lands as swampy or subject to such overflow as to render them unfit for cultivation, they belong to the State, and will be so certified.

"Where lands are claimed by the State under this act which are not so represented on the plats and field-notes, you will require the production of satisfactory evidence that the greater part of
330 each forty-acre subdivision of the lands is of the character specified in the act."

He then remarks that this point has always been maintained by this office, and that if any instructions heretofore issued have been otherwise construed, it has been an error.

In reference to the necessity of an examination of the surface of the land in each subdivision, he gave among others as a reason that probably many of the lands were surveyed at dry seasons, and hence their character for swamp or overflowed lands were not indicated by the descriptive notes and plats, &c.

In conclusion he states in answer to the Secretary's inquiry that he

could not perceive, in view of the clear and definite character of the instructions, and to which the authorities of the States had made no objection, that any additional instructions or regulations were required.

I have been thus particular in getting at the real character of these instructions, and the length of time they obtained under the authority and with the sanction of the Interior Department, for reasons which will hereafter appear.

As the act granting these lands contained no specific directions to the Secretary, as to the means to be employed, or the manner in which he should select them, and as the field-notes of the surveys did not contain data sufficiently full to enable him adequately to
331 carry out the rule which the law laid down for their selection, we suppose it was quite competent for the Secretary through the Commissioner to adopt the form and mode of selection suggested in the instructions which we have just been considering. Under these the States had the option of adopting one or the other of two methods, either to make the field-notes of the surveys the basis of their selection, or to accept the grant upon the basis of a re-survey and examination of the surface of land, in order to determine with more precision the quantity and boundaries of the swamp and overflowed lands, furnishing the requisite satisfactory evidence of the same. The States of Michigan and Wisconsin adopted the former; this State with others elected to take the latter course. See act of the general assembly passed February 2d, 1851, Res. 147.

The act of Congress granting the lands made the Secretary of the Interior the executive officer for carrying the same into effect. In December, 1851, it became necessary for him to determine at what period the grant took effect, whether it was at the date of the law or when the patent issued. In determining this question, he says, the granting clause in the first section, namely, the words "are hereby granted," seemed to him to import a grant in presenti. They confer the right to the land, though other proceedings were
332 necessary to perfect the title. Lester's Land Laws, 549.

This construction of the act by the Secretary, then A. H. H. Stuart, was subsequently confirmed by J. S. Black, Attorney General, in a very clear and able opinion, addressed to Jacob Thompson, who was the Secretary of the Interior at the time, founded upon certain judicial authorities, to which reference was made. Lester, 564.

It was also confirmed by Congress, as we think we have reason to infer from the character and objects of an act passed March 2nd, 1855, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands."

The circumstances giving rise to this act are understood to be these: The lands covered by the grant were not and could not be listed at once, and therefore could not be withdrawn from market without at the same time withdrawing the whole mass of public lands; and inasmuch as entries and locations with land warrants of the public domain were made in a large number of instances without examination of the character or quality of the same, and the local

officers not having the data, in the absence of selections, to make the proper discrimination, the result was that a very large amount of the swamp lands were disposed of to private parties by the government at the local land offices.

333 Now, the effect of all this, under the foregoing decision of the Secretary of the Interior, that the right to these swamp lands vested in the State at the date of the passage of the law, was to render the title of these private entries and locations exceedingly uncertain, if not altogether ineffectual. Hence, it was but natural that those holding lands under such titles should feel dissatisfied with their purchases, and seek some kind of relief at the hands of Congress.

On the other hand, when the State, by its agents, come to select and list these lands, it found its right too largely interfered with to allow it to pass without protest, and lodged a complaint against these intermedlers, and insisted upon the priority of her claim under the law.

The manner in which Congress adjusted this conflict, under the provisions of the act March 2nd, 1855, shows quite unmistakably that the construction which Congress entertained of the act granting the swamp lands was accordant with that of the Secretary of the Interior and the Attorney General; otherwise, upon the hypothesis that no right to these lands had vested in the State, could Congress have felt any necessity of extending the relief granted of validating these private entries and directing patents to issue thereon, nor, on the other hand, of granting to the State the idemnity

334 therein afforded, except upon the idea of a previous investiture in her of the title and right to these lands.

We have not thus referred to the construction which Congress, the Attorney General, and the Secretary of the Interior have given to this act, (and we are not advised that any other executive officer of the government at any time has expressed a contrary opinion,) because we feel it necessary to adopt the same opinion in the disposition of these cases. We expect to place our decision of them on other grounds, and will reserve our opinion as a court upon the proposition whether the act grants a present right or not, until the question becomes a vital one in some other cause. It may not be out of place, however, for the writer of this opinion to suggest that after a more careful examination of the question he is confirmed in the opinion expressed on the same subject in the case of Allison vs. Half-acre, 11 Iowa, 450.

But let it be stated that we have made reference more particularly to the above official, legal, and legislative opinions as constituting a part of the history of the swamp lands, and for the purpose of explaining the conduct of the general assembly of this State in granting the same to the counties where they may be situated which it did as early as January, 1853, as well as accounting

335 for all the legislation and dealings of the State with these lands, from the time the Secretary of the Interior officially declared the act granting them to be one in presente, (nemine contradicente.) Rev. p. 148 to 160 inclusive.

After this exposition of the effect of the grant, we suppose the State, without provoking unjust criticism, could properly assume the control and ownership of these lands, and deal with them in such way as to obtain the objects contemplated by the act of appropriation, first providing, however, for their selection and approval thereof by the department to the State.

Now, in the matter of selecting and listing these lands, let us see what the plaintiffs in these cases have done. The evidence shows that in April, 1853, the county judge of Mills county appointed O. N. Tyson, a co-surveyor, the agent to select the swamp lands of that county. The selections were made, and a list thereof returned to the county judge's office on the 31st of December following; the same was duly verified by the affidavit of the selecting agent, to the effect that he understood and had examined the lines bounding the tracts therein designated, and that each quarter section were swamp or overflowed lands, and of the character embraced by the act of Congress approved September 28th, 1850. This list was reported to the Secretary of State, and by him on the 1st of Feb-
336 ruary, 1854, duly certified, to the surveyor general of this State, who forwarded the same to the General Land Office at Washington on the 20th of September, 1854, with the certificate that he had carefully compared the lists of selections with the field-notes, plats, and other evidences on file in his office; and by the affidavits of the said county surveyor and State locating agent, it appears that the greater part of each smallest legal subdivision of the lands embraced in said list is swampy, or subject to such overflow as to render it unfit for cultivation, and is therefore of the character contemplated by the act of 28th September, 1850.

The surveyor general, Warner Lewis, at the same time sent a transcript of this list of swamp lands to the register of the land office (Mr. Street) of the district where the same were situated. About the same time the evidence shows that the register received from the Commissioner of the General Land Office, John Wilson, a letter dated September 30th, 1854, directing him, on the receipt from the surveyor general of lists of swamp and overflowed lands, selected for the State of Iowa in his district, to note each tract therein embraced in its proper place on his tract-books, and not to permit any entries or locations upon any part of the same.

337 This list includes all the land now in controversy in Mills county. They were selected from actual observation by a county surveyor, and sworn to, reported to the svrveyor general, and by him to the General Land Office in the years 1853 and 1854, nearly two years prior to the passage of the railroad grant.

The lands in Fremont county in controversy amount to some 14,255 62-100 acres, and were selected in nearly equal quantities at two different periods, and in the same manner that the selections were made in Mills county.

The first list was made out, authenticated, returned, ratified, and approved, both by the surveyor general and Commissioner of the General Land Office at Washington, and withdrawn from market at the local land office, all within the year 1854.

The second list of selections was made and duly verified in March, 1856, reported to and fully endorsed by the surveyor general, and by him were forwarded and filed in the General Land Office on the 27th of January, 1857. About the same time they were designated as swamp lands on the tract-books of the local land office at Council Bluffs, and by order of the Commissioner withdrawn from sale.

338 We are unable to perceive any irregularity or departure from the instructions of the Interior Department for the selection and listing of these lands to which we have above referred. Their very full and emphatic approval by the surveyor general of this State, to whom, under specific instructions, had been intrusted the duty of superintending these selections, and who, after a careful comparison of the same with the data and notes of topography accompanying the original surveys, declared that they were of the character and description of swamp and overflowed lands contemplated in the act of appropriation. This, with their subsequent recognition as such by the Commissioner of the General Land Office and withdrawal from public sale from the tract-books, at the local offices, would seem ought to settle the regularity and accuracy of the selections, and that they were in accordance with the rules of previous instructions from the department. It is worthy of note that we find no legal testimony in all the papers of these cases impeaching the bona fides of the selections involved herein, except the certifications thereof, years afterwards, by the Commissioner to the defendant. The circumstances and ground upon which this was done will appear further on.

339 The point next to be noticed in order, in the history of these lands, are the difficulties and embarrassments resulting from the action of the Interior Department, in carrying out the provisons of the act March 2d, 1855, for the relief of purchasers and locators of swamp lands, according to their understood intent and meaning. A very large number of controversies at once sprung up, which led to great excitement, exasperation and expense, a detailed explication of which is not now needful, but which terminated on the memorial of the general assembly of this State, and perhaps other States, in the passage by Congress of the act of repose, approved March 3d, 1857, to the effect that the selections of swamp and overflowed lands heretofore made and reported to the Commissioner of the General Land Office, so far as the same remain vacant and unappropriated, should be confirmed, approved, and patented to the States, as soon as practicable, agreeably to the provisions of the act granting the same. Lester, 285. The circumstances giving rise to the confirmatory act, as well as the obvious import of the language itself, leave no doubt whatever of its meaning and intent, namely, of investing absolutely in the State such lists of swamp and overflowed lands, whether actually so or not, as had before that time been made out and reported to the Commissioner of the General Land Office. And such precisely was the catagory of the lands now in question; they had not only been listed and reported, but their selec-

340 tion had been made in strict compliance with the rules prescribed by the Interior Department, and all returned approved,

and withdrawn from public sale before the act in question was passed. Now, whatever doubts there may exist as to the precise time when the title to these lands vested under the original act granting the same, there cannot be the slightest semblance of a question that the effect of this act was the immediate investiture of the title to all the selections, made and reported at the date of the law, which did not interfere with actual settlements, made under other pre-existing laws. And such is the construction which the Secretary of the Interior very properly gave this act again and again. (Lester's Land Laws, 558, 562, 563, 565, 567, 570.) And under that construction, very many contests in regard to the real character of these lands, pending at the passage of this act, fell to the ground thereafter, and were no longer the subject of disputation. This act being mandatory and absolute in its terms, its effect was intended to compose all differences about the character of the selections made and reported, so that the power of the Secretary of the Interior over these questions was exhausted and at an end, and he had left no duty to perform in reference to them, except the mere ministerial duty of furnishing the several governors of the States with a true, certified list thereof from the Commissioner under the seal of his office, (which is all the patent or evidence of title required under another act of Congress, approved August
341 3, 1854. Lester, 236;) and also the additional duty of determining whether any of these reported selections had been otherwise appropriated or interfered with by legal settlements. Subject to this qualification, the right of the State to demand a certification of these selections cannot be questioned, and it is this right to demand which constitutes the plaintiffs' claim, and which, we suppose, in a court of justice, is equivalent to the title, the certified list when made, only the evidence thereof.

Having traced out the nature and foundation of plaintiffs' right, and claim to these lands, let us next see the nature and basis of the defendants' claim to the same lands. Derived as it is from an act of Congress approved May 15th, 1856, appropriating lands to the State in alternate sections to aid in the construction of certain lines of railway therein specified, it will not do to overlook the restrictions and reservations which it contains, as qualifying the rights of the State under the grant, and the date at which she would take under the same:

First. It reserves from the operation thereof all lands heretofore appropriated for the purpose of aiding any object of internal improvement, or for any other purpose whatever. This reservation is sufficiently broad to except the swamp land grant; besides, we are not at liberty to suppose that Congress would be guilty of the folly of granting the same lands for two distinct objects.

342 Second. The enacting or granting clause contains this provision: "But in case it shall appear that the United States have, when the lines or routes of said roads are definitely fixed, sold any sections or any parts thereof, granted as aforesaid, or that the rights of pre-emption have attached to the same, then it shall be lawful for any agent or agents to be appointed by the governor of

said State to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the rights of pre-emption have attached."

The object of this provision is too clear for misapprehension. It was to keep the grant open so as not to prevent private entries from going on, or other disposition of the same by the government until the lines of the several railways were definitely established, before which it would be impossible in the nature of things for the right of the State to attach, for the reason the grant is limited to odd sections within a prescribed distance from such line. In the absence of such a restriction, the difficulties that arose under the swamp land grant (to relieve against which the act of March 5th, 1855 above refered to was passed by Congress) would have been duplicated; Congress was shut up either to this restriction, or the withdrawal of all the public lands in the State from sale for the time being, or
343 otherwise witness a repetition of the conflicts and embarrassments that grew out of the swamp grant for the want of a similar restriction. Now, as entries at large were permitted under the railroad grant up to the time that the lines should be definitely fixed, it would hardly be contended that a party having a pre-emption right, or who should be a purchaser of one of the odd sections, after the date of the grant but within its limits, as subsequently ascertained by a final location of the route, could be divested of his right and title by the superior claim of the railroad company; if not, upon what principle is it that the defendant in these cases claim priority of right over the plaintiffs to the lands in dispute, when the final location of the line of its road was not definitely determined till the 24th of March, 1857, being subsequent to the date of the act of Congress, confirming irrevocably the tittle thereto as swamp lands? There can be but one answer to this worthy of any consideration, which is that inasmuch as the Commissioner of the General Land Office, under the real or supposed authority of the Secretary of the Interior, has certified these lands to the defendant, his action in the premises, whether right or wrong, being political and executive in its character, cannot be reviewed or drawn in question by the courts of the country. This is the principal and certainly the mot important point of the defense in these cases. It merits attentive consideration, and should be preceeded by a statement of some of the circum-
344 stances leading to the certification in question.

First. It will be remembered that as early as 1851, the Secretary of the Interior declared the swamp land act a present grant; that shortly thereafter the legislature of this State granted these lands to the counties; that Fremont and Mills counties, plaintiffs herein, proceeded to select the same pursuant to instructions emenating from the Interior Department; that these selections were of the character of lands contemplated by the act, as proven in the manner prescribed in the instructions, and certified to by the surveyor general, ratified and approved by the Commissioner, entered as such on

the tract-book of the local offices, and withdrawn from public sale. Afterwards, but before the defendant had the route of their road definitely fixed, Congress, by a special act, March 3d, 1857, confirmed these selections, and directed that they should be at once certified to the State as swamp lands. The effect of this act, in the opinion of the Secretary, as he frequently expressed it, was to foreclose all questions in regard to the swampy character of these lands, leaving no duty for him to perform in relation thereto, except to determine how far these selections so confirmed were interfered with by the acts of Congress. The Secretary had informed the Commissioner (Lester 537) that before title to railroad lands would vest the route must be staked off and marked upon the ground, in such manner as to 345 indicate clearly the fixedness of the line; that the mere survey of the line fixes nothing; it is only means of information, not location; he says definitely fixed, implies fixed without capacity of change. Attorney General Cushing, speaking of the Iowa railroad grants, informs the Secretary that whilst they are conditional grants in presenti, yet they are in the nature of floats, which do not attach to any particular parcel of the public lands, until the necessary determinative lines of railroads shall have been definitely fixed. Now, in this sense the defendant's line was not permanently established until March 24th, 1857, which was posterior to the confirmation of plaintiffs' title by act of Congress. This fact in both the opinion of the Commissioner of the General Land Office, Mr. Hendricks, and Mr. Thompson, the Secretary of the Interior, as expressed in letters to each other dated the 2d and 10th of December, 1858, (Lester's Land Laws, 5,667,) established the priority of plaintiff's claim under the confirming act of March 3d, 1857; yet under all these circumstances, and notwithstanding the plaintiffs had in the mean time sold much of these lands, and as the evidence shows had expended many thousand dollars in reclaiming the same, according to the expressed purpose of the grant, Mr. Edwards, a new Commissioner of the General Land Office, on the 25th March, 1862, certifies the lands now in dispute as enureing to the State for the use of the defendants under the railroad grant, May 15, 1856, being some seven or eight years 346 after the same had been selected and approved as swamp lands by his predecessor, and more than five years after they had been confirmed to the State as swamp lands by a special act of Congress. Now as this act was directly in opposition to the declared views of the former officers of the Interior Department and Land Office, to which we have already referred, and also against the express legal opinion of the Attorney General, Black, (Nov. 10, 1858, Lester 564,) in which he held, with great show of reason and good sense, that where lands are claimed under a swamp and railroad grant, either of which would be good if the other was out of the way, the elder one must prevent "prior in tempore potior est in jure." It is interesting to learn how this was brought about, and upon what pretense it was done. It will be remembered that soon after the railroad grant was made in 1856, the Interior Department was prevailed upon by parties interested in this grant to suspend the confirma-

tion of swamp land selections, until an adjustment could be made of the rights of the parties under the two grants. For four years thereafter the Commissioner and Secretary failed to reject any portion of these selections on the one hand, or to certify the same to the State for the benefit of the railway companies on the other. In the mean time, however, they settled questions of conflict between the two grants arising in this and other States, and adopted rules for executing the same, under which they never could have done so
347 without a change of opinion as to the construction of these acts, as we have heretofore shown. After they retired from office, and were succeeded by Mr. Smith as Secretary, and Edmunds as Commissioner, the agents of defendant, Gen. Dix, its president, and a Mr. Steiger, its land agent at Washington, renewed the application for the certification of these lands to the defendant, and persistently urged the same until Mr. Edmunds finally complied. But before he could certify he must first reject them from the swamp selections. This he accomplished, by passing through the selections, and casting out of the lists those tracts in odd sections within the range of the railroad grant which the field-notes of the survey did not indicate to be swamp or overflowed in such manner as to render them unfit for cultivation, thereby overturning and undoing all that the State and counties had done at much expense under a different rule for the selection of these lands, prescribed by his predecessors, and acquiesced in by the department for a series of years. He professes to derive his authority for doing so from a letter of instructions written by the Secretary of the Interior, dated Feb. 8, 1860. That he failed to apprehend the true import of this letter as applicable to the facts of these cases, there can be but little doubt. A transcript of this letter is in the record, it will not be found in Lester's Land Laws. Conflicts between the swamp and the road grants assumed different phases according to the diverse facts under which they sprung
348 up. The letter in question is general, designed to cover all, and not particular cases, and was extended to lay down rules of adjustment that would meet each class of cases therein specified. The first class and the rule applying thereto is this: that where the lands are claimed under both grants, and the title under the railroad grant had vested after the passage of the confirmatory act of March 3d, 1857, as evidenced by a definit location of the line of road, then the title should be completed under the swamp act. The second class is where claim is made under both grants, and the title under the railway grant vested as aforesaid, before the passage of act of March 3d, 1857, the rule prescribed in this phase of the conflict of the swamp selections, and the Commissioner was directed to examine these selections in the light of the field notes of the surveys, and the papers on file and of record, and if the claim under the older grant was satisfactorily established, to affirm the title under the same, otherwise to certify the title under the junior grant. We need not notice the other cases of conflict mentioned in this letter. They refer to selections of swamp land made subsequent to this act of March 3d 1857, and would have no particular pertinency to the cases before us.

Now, the mistake which we think the Commissioner made was in applying the rule of adjustment laid down for settling conflicts in the second class to those of the first class, within which the evi-
349 dence shows these cases fall. And it may not be out of place to suggest that inasmuch as the act of rejection mentioned was not only without authority, but really at variance with the instructions of the Secretary of the Interior, the same should be treated as a void act. But afterwards he certified these rejected swamp lands to the defendant, and it is said his act in this respect was approved by Secretary Smith. This is true, yet both the certification and approval contained this qualification, that they did so subject to the conditions of the grant and any valid interfering rights, which may exist. This reservation would seem to imply hesitation and doubt of the propriety of the act, whilst rights injuriously affected thereby might be in some way redressed. Nevertheless it is now claimed that this act of certification being political and executive in its character, and the final disposition of the soil, concludes all judicial inquiry into any antecedent right or claim which may be set up to the same; that the power to make all needful rules and regulations for the disposition of the public lands under the Constitution belongs to Congress is no longer an open question in this country. Where, within these rules, and not interfering with previously acquired substantial rights, government officers do dispose of the public domain, the title will not be allowed to be gainsayed or impeached. We do not understand the authorities refered to by the defense to go any further than this.

350 On the other hand, if a legal or vested right is in any way impaired or violated by an executive officer of the government, even in the matter of certifying lists of lands previously granted by Congress, we suppose such violation to fall legitimately within the judicial cognizance of the courts, as if the same right had been invaded by an individual or the legislative department of the government. We take it to be a well-established principle of law that when a party, in the prosecution of a right, does everything which the law requires, and fails to attain his right by the misconduct, negligence, or ignorance, or mistake of a public officer, the law covers and will protect that right. The following are some of the authorities which will support the principle here laid down: Leissure *et al. vs.* Price, 12 How., 60; Little *vs.* The State of Arkansas, 9 How., 315; Ladega *vs.* Rolund *et al.*, 2 How., 581; Bagnel *vs.* Broderick, 13 Pet., 436; Wilcox *vs.* Jackson, 13 Pet., 498. We can add nothing to the force of the facts which we have already detailed, showing that the investiture of the plaintiffs' right to these lands had really taken place anterior to the date when defendant's right attached by virtue of the permanent location of the road line. If anything was left undone by the plaintiffs in selecting and listing these lands, which was required by the act granting them, or by the rules and instructions of the Interior Department, as to the
351 manner of making and reporting them, in order to make good their right, we have been unable to detect it from the record.

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349 dence shows these cases fall. And it may not be out of place to suggest that inasmuch as the act of rejection mentioned was not only without authority, but really at variance with the instructions of the Secretary of the Interior, the same should be treated as a void act. But afterwards he certified these rejected swamp lands to the defendant, and it is said his act in this respect was approved by Secretary Smith. This is true, yet both the certification and approval contained this qualification, that they did so subject to the conditions of the grant and any valid interfering rights, which may exist. This reservation would seem to imply hesitation and doubt of the propriety of the act, whilst rights injuriously affected thereby might be in some way redressed. Nevertheless it is now claimed that this act of certification being political and executive in its character, and the final disposition of the soil, concludes all judicial inquiry into any antecedent right or claim which may be set up to the same; that the power to make all needful rules and regulations for the disposition of the public lands under the Constitution belongs to Congress is no longer an open question in this country. Where, within these rules, and not interfering with previously acquired substantial rights, government officers do dispose of the public domain, the title will not be allowed to be gainsayed or impeached. We do not understand the authorities refered to by the defense to go any further than this.

350 On the other hand, if a legal or vested right is in any way impaired or violated by an executive officer of the government, even in the matter of certifying lists of lands previously granted by Congress, we suppose such violation to fall legitimately within the judicial cognizance of the courts, as if the same right had been invaded by an individual or the legislative department of the government. We take it to be a well-established principle of law that when a party, in the prosecution of a right, does everything which the law requires, and fails to attain his right by the misconduct, negligence, or ignorance, or mistake of a public officer, the law covers and will protect that right. The following are some of the authorities which will support the principle here laid down: Leissure *et al. vs.* Price, 12 How., 60; Little *vs.* The State of Arkansas, 9 How., 315; Ladega *vs.* Rolund *et al.*, 2 How., 581; Bagnel *vs.* Broderick, 13 Pet., 436; Wilcox *vs.* Jackson, 13 Pet., 498. We can add nothing to the force of the facts which we have already detailed, showing that the investiture of the plaintiffs' right to these lands had really taken place anterior to the date when defendant's right attached by virtue of the permanent location of the road line. If anything was left undone by the plaintiffs in selecting and listing these lands, which was required by the act granting them, or by the rules and instructions of the Interior Department, as to the
351 manner of making and reporting them, in order to make good their right, we have been unable to detect it from the record.

But when, in addition to this, they were recognized by the department as regular and valid, and subsequently confirmed by Congress, after they had been separated from the mass of other public lands, and designated by legal divisions and subdivisions, what other acts could the government have done to have more effectually vested the right in and to these lands than those just mentioned? And if the plaintiffs have a vested right, why are they not entitled to a stand in a court of justice, as have all other parties with invaded legal rights? The reply is, they are concluded by the act of the Commissioner, who rejected them as swamp lands and certified them as railroad lands. But suppose these same lands had been taken up by private entries (the swamp grant being out of the way) at any time before the line of the roads was definitely fixed, and they should afterwards be certified by the Commissioner to the defendant as railroad lands, would such certification conclude the rights of private purchasers, although they had not yet obtained their patent? It seems to us upon no fair principle of interpretation of these several acts of Congress could the certificate of a mere ministerial officer have that effect. Congress never intended to attach such undue solemnity to these certificates, as will abundantly appear from the language of an act passed Aug. 3d, 1854, which, whilst it
352 provides that the certified lists by the Commissioner shall have the effect to convey the fee simple of all the lands embraced in said lists that are of the character contemplated by the act of Congress, and intended to be granted thereby; yet it further declares "that when lands embraced in such lists are not of the character embraced by such act of Congress, and are not intended to be granted thereby, said lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim or interest shall be conveyed thereby." (Lester's Land Laws, 236.)

This negatives the conclusive character of these certificates, and when they are made in the manner supposed, so as to make them null and void, there must be some tribunal to determine that question. If they controvene substantial rights, as in these cases, we do not see why the courts of the country are not open to afford the adequate redress. Believing that they are, and that the court below decided right in these cases, we shall affirm the same.

Affirmed.

353 At a Supreme Court of the State of Iowa begun and held at the capital, in the city of Des Moines, on Tuesday, the 7th day of June, A. D. 1866, present the Hon. Ralph P. Lowe, C. J., Hon. John F. Dillon, Hon. Chester C. Cole, Hon. Goorge G. Wright, justices, when the following among other proceedings were had and done, to wit:

Appeal from Mills county.

FRIDAY, *June* 22*d*, 1866.

MILLS COUNTY
against
BUR. & MO. R. R.R. Co., appellant. } No. 2,523.

This day this cause coming up for hearing was continued.

At a Supreme Court of the State of Iowa begun and held at the capital, in the city of Des Moines, on Monday, the 3d day of December, A. D. 1866, present the Hon. Ralph P. Lowe, C. J., Hon. John F. Dillon, Hon. Chester C. Cole, Hon. George G. Wright, justices, when the following among other proceedings were had and done, to wit:

Appeal from Mills county.

354 TUESDAY, *December* 4*th*, 1866.

MILLS COUNTY
vs.
BUR. & MO. R. R.R. Co., app'l't. } No. 2,523.

This day this cause coming up for hearing was submitted to the consideration of the court on printed argument of counsel.

Appeal from Mills county.

FRIDAY, *December* 28*th*, 1866.

MILLS COUNTY
vs.
BUR. & MO. R. R.R. Co., app'l't. } No. 2,523.

Ordered that this cause be continued for further advisement.

At an argument term of the Supreme Court of Iowa begun and held at the city of Davenport, in said State, on Tuesday, the 2d day of April, A. D. 1867, present the Hon. Ralph P. Lowe, C. J., Hon. John F. Dillon, Hon. Chester C. Cole, Hon. George G. Wright, justices, when the following among other proceedings were had and done, to wit:

355 *Appeal from Mills county.*

THURSDAY, *April* 11*th*, 1867.

MILLS COUNTY
vs.
BUR. & MO. R. R. R. Co., app'l't. } No. 2,523.

In this cause the court, being now sufficiently advised in the premises, affirm the judgment of the court below and file their written opinion.

At a Supreme Court of the State of Iowa, begun and held at the capital in the city of Des Moines, on Tuesday, the 4th day of June, A. D. 1867, present the Hon. Ralph P. Lowe, C. J., Hon. John F. Dillon, Hon. Chester C. Cole, Hon. George G. Wright, justices, when the following, among other proceedings, were had and done, to wit:

Appeal from Mills county.

SATURDAY, *June 8th*, 1867.

MILLS COUNTY
vs.
BUR. & MO. RIVER R. R. Co., app'l't. } No. 2,523.

At the argument term held at Davenport, in April last, the court ordered that this cause be affirmed. It is now considered by
356 the court that the judgment and findings of the court below be, and the same hereby are, affirmed; that a writ of procedendo issue accordingly, and that the appellee have and recover of and from the appellant the costs in this behalf, laid out and expended at this court, taxed at nineteen dollars and twenty-five cents, and that execution issue therefor.

STATE OF IOWA, *Supreme Court, ss*:

I, C. Linderman, clerk of the Supreme Court of Iowa, do hereby certify that the foregoing pages contain a full, true, and complete copy of all the pleadings, exhibits, depositions, documentary evidence, opinion of the Supreme Court, and record entries of said court, in the cause of Mills County *vs.* The Burglington and Missouri River Railroad Company, as full, true, and complete as the same remain on file and of record in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court at Des Moines, Iowa, this 27th day of November, A. D. 1867.

[SEAL.]
[5 cent stamp.]

C. LINDERMAN, *Clerk.*

358 United States of America to the County of Mills, in the State of Iowa, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the Supreme Court of the State of Iowa, wherein the Burlington and Missouri River Railroad Company are plaintiffs in error, and you are defendant in error to show cause, if any you have, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness Hon. Samuel F. Miller, one of the justices of the Supreme Court of the United States, this 19th day of June, A. D. 1867.

SAM. F. MILLER.

June 19*th*, 1867.

The foregoing notice was duly served this 19th day of June, A. D. 1867.

WM. HALE,
Attorney for Mills County, Iowa.

Endorsed: Citation, Mills county. Filed July 11, '67. C. Linderman, cl'k.

359 Supreme Court of Iowa.

Know all men by these presents, that we, the Burlington and Missouiri River Railroad Company, as principal, and C. E. Perkins and E. D. Rand as security, are held and firmly bound unto Mills county in the sum of two hundred dollars, to be paid to the said Mills county; to which payment, well and truly to be made, we bind ouselves, and each of us, jointly and severally, firmly by these presents. Dated this 17th day of June, A D. 1867.

The condition of this obligation is such, that whereas the said Mills county has obtained a decree in chancery, in the Supreme Court of the State of Iowa, against the said Burlington & Missouri River Railroad Company, affirming the decree of the District Court of said Mills county, and quicting the title of said county to certain lands, and for cost; and whereas the said Burlington & Missouri River Railroad Company, in order to obtain a reversal of the same, hath sued out a writ of error to the Supreme Court of the United States: Now, therefore, if the above-named Burlington and Missouri River Railroad Company shall prosecute its said writ of error to effect, and shall pay all costs if it fail to make good its plea, then this ob-
359 ligation shall be void; otherwise the same shall remain in full force and virtue.

The Burlington and Missouri River Railroad Company,
By D. RONER,
Solicitor of Record in said case.
C. E. PERKINS.
E. D. RAND.

Executed and delivered in presence of witness—
WM. IRVING.
[50-cent stamp.]

June 17, 1867.

The within bond and the security therein are approved.
SAM. F. MILLER, *Judge.*

Endorsed: Filed July 26, '67. C. Linderman, cl'k.

 The President of the United states of America to the judges of the Supreme Court of the State of Iowa, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea in said court, wherein Mills county in State of Iowa, is plaintiff, and the Burlington & Missouri River Railroad Company are defendants, a manifest error hath happened to the damage of said defendant, you are hereby commanded, if judgment be therein given, that then under your seal you send the record and proceedings aforesaid with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington city on the first Monday of December next, in said Supreme Court, to be then and there held, that the said record being inspected, the said Supreme Court may cause the said errors to be corrected, which of right ought to be.

Witness Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, and the seal of said Supreme Court, this 17 day of June, A. D., 1867.

Attest:

[SEAL.]

W. G. WOODWARD,
Clerk Circuit Court U. S. Iowa.

The Supreme Court of Iowa hereby acknowledge service of this writ of error on us this 17 day of June, 1867.

R. P. LOWE,
Chief Justice.

I obedience to the within writ of error I return the same with the foregoing citation, bond, and transcript in the case, to the Supreme Court of the U. S.

C. LINDERMAN,
Clerk Sup. Court Iowa.

Endorsed: Error. Mills county. Filed June 17, '67. C. Linderman, clerk.